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Audit Report

S.M.A.R.T. HOUSING

Revised: May 2002
Original Release: February 2002

Office of the City Auditor
Austin, Texas

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On February 26, 2002, the Office of the City Auditor presented this audit report to the City Council Audit and Finance Committee. The Committee accepted the audit report. A revised management response was incorporated for release in May 2002.

This report includes all changes made through May 2, 2002.

This report is also available at our website, <http://www.ci.austin.tx.us/auditor>, in pdf format. You may also request additional hard copies through the website or by email at oca_auditor@ci.austin.tx.us. Please request Audit No. AU01303.



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May 21, 2002

To: Mayor and Council Members

From: Stephen L. Morgan, City Auditor

Subject: S.M.A.R.T. Housing Audit Report

Attached is the final, revised audit report on S.M.A.R.T. Housing, an initiative administered by the Neighborhood Housing and Community Development Office (NHCD). We presented an earlier version of the report at the Audit and Finance Committee on February 26, 2002, and the report was accepted at that meeting. However, at the meeting, NHCD management raised concerns that we discussed in subsequent meetings, and have addressed in revisions to this report.

The revisions do not modify the original conclusions of the audit, but we did modify the bold message on page 15 to read "SMART Housing is having a positive effect on reasonably priced housing in Austin." Specifically, we added information in the scope (page 7) about parts of the initiative not covered in the audit and clarified the difference between audit's definition of "public-private partnership" and that of NHCD in a footnote on page 24.

We also demonstrated to NHCD that our reported figure of \$1.2 million in waived fees included fees that they were not considering in reporting that the figure was closer to \$800,000.

We appreciate the courtesy and cooperation that we received from the Director and staff of the NHCD during and after this audit.

A handwritten signature of Stephen L. Morgan in black ink.

Stephen L. Morgan, CIA, CGAP, CFE, CGFM
City Auditor



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February 26, 2002

To: Mayor and Council Members

From: Stephen L. Morgan, City Auditor

Subject: S.M.A.R.T. Housing Audit Report

I am pleased to present this audit report on S.M.A.R.T. Housing, an activity administered by the Neighborhood Housing and Community Development Office. The purpose of this audit was to assess the performance achieved through implementation of the S.M.A.R.T. Housing Resolution passed by Council in April 2000.

S.M.A.R.T. Housing appears to be having a positive effect on housing stock in Austin. In the first 18 months of the activity, developers have built and rented or sold 329 reasonably priced units. Anecdotal information from developers give the staff "high fives" for their ability to reduce time in the development review cycle and for their advocacy in zoning cases.

Certain management practices need to be strengthened and documented to ensure continuity of the activity and consistency in the application of the S.M.A.R.T. Housing criteria. In addition, the agreements with developers need to take the form of a formal contract with consideration from both parties. Through this approach, the City would have a means to recover fees waived if the specified number of reasonably priced units is not delivered.

We appreciate the cooperation and assistance from Neighborhood Housing and Community Development staff during this audit.

Stephen L. Morgan, CIA, CGAP, CFE, CGFM
City Auditor

S.M.A.R.T. HOUSING COUNCIL SUMMARY

In response to the housing crisis in Austin, the City Council passed a resolution establishing a S.M.A.R.T. Housing initiative, which was consistent with best practices and recommendations from the Community Action Network report, *Through the Roof*. The S.M.A.R.T. Housing initiative established a set of criteria to be met by developers of reasonably priced housing for families with incomes of 80 percent or below the area median family income (MFI) in order to receive City incentives. Incentives offered to developers included

- land development fee waivers and
- expedited development review.

The scope of this audit covered the time period from April 2000 through September 2001.

Implementation of the S.M.A.R.T. Housing initiative is having a positive effect on the development of reasonably priced housing in Austin.

- 329 reasonably priced S.M.A.R.T. Housing units have been completed, including single- and multi-family units.
- An additional 3,368 reasonably priced S.M.A.R.T. Housing units are in various phases of the development process.
- S.M.A.R.T. Housing also includes units that are marketed to families above 80 percent MFI.
- Fees waived under the S.M.A.R.T. Housing Resolution and within the scope of this audit total approximately \$1,214,000.

S.M.A.R.T. Housing staff has had only limited success in forming public-private partnerships with developers.

- Neighborhood Housing and Community Development has certified ten public-private partnership projects.
- However, only one public-private partnership has produced and sold any units.
- None of these certified projects are planned to include housing for the very low to low-income families.

Some requirements of S.M.A.R.T. Housing improve the quality of new housing.

- All S.M.A.R.T. housing must meet the Green Building Level 1 standard, and accessibility standards.
- *Reasonably priced* S.M.A.R.T. housing must also meet these standards.

Current S.M.A.R.T. Housing performance measures are insufficient for assessing results and holding staff accountable.

- Measures reported in the budget and business plan are not aligned with S.M.A.R.T. Housing services, reducing ability to hold staff accountable for results or performance.
- Data collection is not adequate and reporting may be misleading.

Waived fees of approximately \$1,214,000 have not been accounted for in any City budget program.

- Neighborhood Housing and Community Development has not documented all fees waived for each project.
- No reliable method has been developed to identify all fees waived under the S.M.A.R.T. Housing Resolution.

Criteria established by the S.M.A.R.T. Housing Resolution lack consistency in ability to enforce.

- Not all S.M.A.R.T. Housing units meet the criterion for affordability, i.e. the household spends no more than 30 percent of income on housing.
- For some reasonably priced S.M.A.R.T. Housing, the five-year retention period requirement is difficult to enforce.
- Compliance with the transit orientation specification is assured only in the event a transit stop is already located within 1,000 of the development.
- Projects are not evaluated for compliance with any specified mixed-income criterion.

S.M.A.R.T. Housing lacks a formalized contract with the developer and management controls for managing the activity.

- There is no binding contract between developers of S.M.A.R.T. Housing units and the City.
- Current agreements are not sufficient to ensure recovery of waived fees if the developer does not build the proposed number of reasonably priced units.
- The S.M.A.R.T. Housing service does not have an adequate monitoring function.



ACTION SUMMARY S.M.A.R.T. Housing

Rec#	Recommendation Text	Management Concurrence
01	<p>To continue attracting developer participation in S.M.A.R.T. Housing, the Community Development Officer should collaborate with the directors and staff of Watershed Protection and Development Review, Water Wastewater, and Public Works to develop and implement cost-reduction strategies other than fee waivers and expedited review for affordable housing development in Austin, and remove barriers to development of low-moderate housing in the Austin market.</p>	Concur
02	<p>To ensure that the City can recover damages and waived fees, in the event of non-performance by S.M.A.R.T. Housing-certified projects, the Community Development Officer should work with the City's Law Department to create and implement a binding contract, to be executed as a condition of receiving waivers, advocacy, and additional S.M.A.R.T. Housing benefits. Elements of the contract should include, but not be limited to,</p> <ul style="list-style-type: none">• expected performance and means to measure requirements,• monitoring requirements, with timelines, and sanctions for non-compliance,• fee types authorized for waiver per project,• actual dollars waived per project, and• audit provisions.	Concur

Rec#	Recommendation Text	Management Concurrence
03	<p>To account for the City's investments via fee waivers, S.M.A.R.T. Housing staff should</p> <ul style="list-style-type: none"> • set up an agreement with the departments that waive fees to report actual fee waiver amounts to S.M.A.R.T. Housing staff, • reconcile authorized waivers to actual waivers, • measure costs associated with fees waived, and • report total fees waived in the S.M.A.R.T. Housing report to the City Manager's Office. 	Concur
04	<p>To address the issue of affordable housing stock retention, the Community Development Officer and Neighborhood Housing and Community Development staff should review the current use of affordability controls to protect the City's interest, such as restrictive covenants and first right of refusal on S.M.A.R.T. Housing project properties, and make recommendations to Council to the effect of strengthening affordability control requirements.</p>	Concur

Rec#	Recommendation Text	Management Concurrence
05	<p>In order to ensure performance accountability, the Community Development Officer should identify and implement a family of performance measures that accurately reflect what S.M.A.R.T. Housing staff are expected to achieve. These measures should include, but not be limited to, the following measures:</p> <ul style="list-style-type: none"> • Foregone revenues (City investment) per reasonably priced S.M.A.R.T. Housing unit by housing type and income group served (efficiency measure, useful for cost-benefit analysis). Requires collection of <ul style="list-style-type: none"> ○ waived fee costs (input) and ○ number of S.M.A.R.T. units serving incomes 80 percent and below (output). • Affordability impact statements <ul style="list-style-type: none"> ○ number issued (output) ○ estimated cost avoided (outcome*). • Number of reasonably priced S.M.A.R.T. Housing units certified and number completed by housing type and income group served (outputs). 	Concur
06	<p>In addition, the Community Development Officer should adopt and monitor a measure for the Housing Development division reflecting the stock of affordable housing available to each income category in Austin.</p>	Does Not Concur
07	<p>To further ensure performance accountability, the Community Development Officer should promote S.M.A.R.T. Housing from a service to a budgeted activity.</p>	Concur

Rec#	Recommendation Text	Management Concurrence
08	The City Manager should reemphasize that other City departments involved in housing development should plan and cooperate with the S.M.A.R.T. Housing staff to ensure that affordable housing issues are addressed in new subdivisions, extensions of existing services, analysis of excess service capacity, and annexations.	Concur
09	To ensure service administration consistency and continuity of the S.M.A.R.T. Housing service, the Community Development Officer should direct the S.M.A.R.T. Housing staff to develop and document written internal policies and procedures for S.M.A.R.T. Housing.	Concur
10	To achieve policy objectives and avoid project disqualification on technicalities, S.M.A.R.T. Housing staff should <ul style="list-style-type: none"> a. revise affordability and transit-oriented criteria to be more flexible and b. develop and implement a matrix to evaluate a project's eligibility for program participation according to its contribution to S.M.A.R.T. Housing objectives. 	Concur

Rec#	Recommendation Text	Management Concurrence
11	To assist developers in making an informed decision about participation in the service, S.M.A.R.T. Housing staff and the NHCD Public Information Officer should revise S.M.A.R.T. Housing guidelines (the Guide) to include clear descriptions of mutual expectations with regard to processes and products, maximum benefits of fee types eligible for waiver, timeliness expectations, and other rules and requirements.	Concur
12	To get maximum value from periodic reports, S.M.A.R.T. Housing staff should confer with management, Council and citizens on their information needs and customize reports accordingly; reports should include measures and tables that clearly reflect service activities.	Concur

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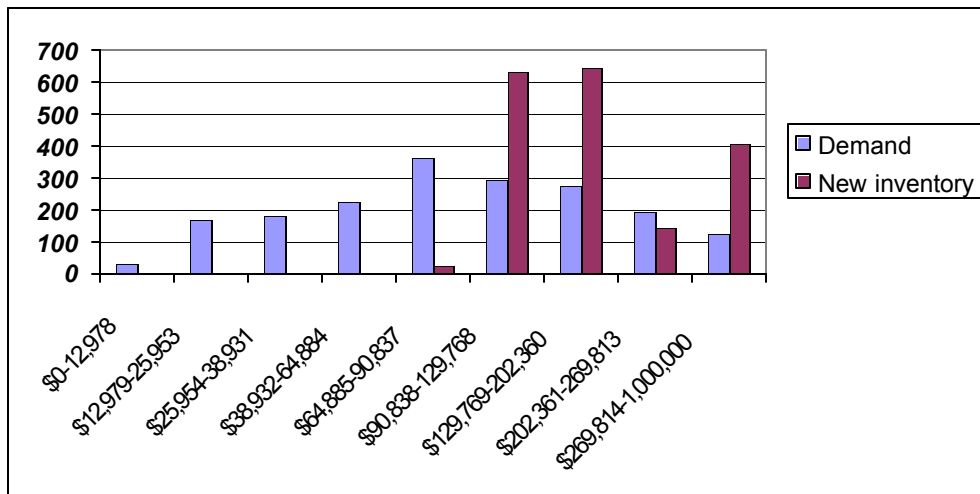
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CHAPTER 1 BACKGROUND

The affordable housing crisis in Austin deepened through the nineties, and into the new decade, as incomes failed to keep pace with the median house price. From 1995 to 2000 the median housing price in Austin increased 43 percent, from \$100,500 to \$144,600, while median incomes increased only 31 percent from \$43,200 to \$58,900. This trend has left many prospective homebuyers lacking access to affordable housing options. While median income households could buy a home more easily at the close of the 1990s than at the start of the decade, homeownership had become further out of reach for families with incomes below 80 percent of the Austin-area median family income.

Exhibit 1.1 shows the calculated demand for housing priced below \$90,000 as approximately 50 percent of total demand for single-family housing, according to a 1999 market study. At this time, almost 100 percent of new units were being priced above \$90,000.

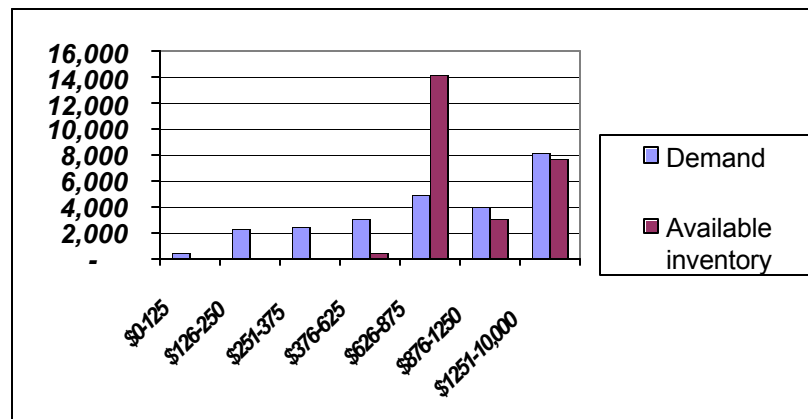
EXHIBIT 1.1
Housing Demand and Supply
in the Greater Austin Area



SOURCE: Capitol Market Research, October 1999.

In the late 1990s, escalating rents had resulted in 41 percent of renter households unable to afford a two-bedroom apartment. Families of two or more earning 50 percent of Austin-area median family income could not afford the average rent for a suitably sized apartment.¹ Exhibit 1.2 shows a forecast for demand and supply of rental units, demonstrating again that the demand for lower priced units may not be met by proposed development over the next six years.

EXHIBIT 1.2
Forecast of Rental Unit Demand and Supply
in the Greater Austin Area, 2000-2005,



SOURCE: Capitol Market Research, October 1999.

The change in local and national economic conditions since the 1999 market study was conducted will have had some effect on these anticipated trends in the housing gap. However, no analysis was conducted during this audit to update these presentations of unmet housing demand.

In 1999, the Community Action Network issued a landmark report, *Through the Roof*, identifying barriers to affordable housing and recommending solutions to ameliorate the housing crisis in Austin. In 1998, the Community Action Network (CAN), a public-private partnership of 13 community organizations, assembled 23 community and business leaders to research and recommend enhancements to housing policy in the region. They found key causes of the housing gap included:

- rapid population and employment growth,
- uneven growth in wages,
- growth of housing supply at the high end,
- lack of housing supply at the low end,
- a critical mismatch between incomes and housing prices, and
- a decline in federal resources for housing programs.

¹ Greatly anticipated, detailed measures of housing need relating to housing cost burdens and other factors, as well as data on the distribution of the Austin population by relative incomes adjusted for family size, will become available from the Bureau of the Census in April 2002.

The group also identified key barriers to closing the housing gap, including lack of

- public access to available programs,
- awareness of the vital role of housing to the community,
- resources for affordable housing, and
- regulations and costs related to building and renovating homes.

A critical dimension of the issue, as presented in *Through the Roof*, was also the flight of Austinites and associated the tax base to outlying areas in search of affordable housing. Data showed that the City of Austin was losing its middle class to the cities of Round Rock, Pflugerville, and Cedar Park.

The CAN report also identified five regulatory areas that were limiting additions to the supply of affordable housing. Among the barriers to easing the housing crisis, CAN highlighted regulatory issues over which the City holds authority. Indeed, costs associated with government regulations have been found to add 20 to 35 percent to the cost of an average new home, thus providing reform opportunities for cost savings.

- *Delays due to permitting processes.* CAN recommended streamlining these processes or coordinating activities across City offices to reduce the associated costs.
- *City development fees.* Austin reportedly had the highest development fees for both single- and multi-family developments when compared to Dallas, Houston, San Antonio, Round Rock, and San Marcos.
- *Natural environmental factors.* Factors associated with environmental protective policies could result in increased development costs.
- *Zoning constraints.* Inflexible lot size, density requirements, and the political nature of zoning processes could affect costs.
- *Land and infrastructure prices.* The lack of, and high cost of, available land in the City limits were resulting in development's shift to the urban periphery.

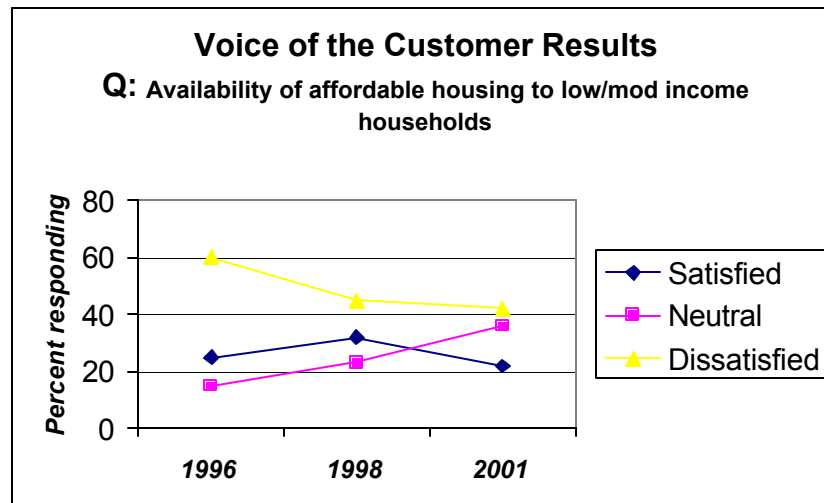
Neighborhood Housing and Community Development (NHCD) and the City, in turn, adopted these findings in its 2000-2005 Consolidated Plan, which was presented in fulfillment of funding requirements to the federal department of Housing and Urban Development (HUD) in December 2000. The consolidated planning process is required to be a collaborative effort to shape community programs into coordinated strategies; HUD requires that the local jurisdiction describe local policies that are barriers to affordable housing and ways the jurisdiction can ameliorate these negative effects.

Respondents to *The Voice of the Customer* survey have consistently rated availability of affordable housing as one of the lowest among City services in customer satisfaction. In 1996, citizens responding to *The Voice of the Customer* survey rated satisfaction with affordable housing availability lowest among City services. The satisfaction ratings in 1998 and 2000 continued to be among the lowest. Notably, although satisfaction was extremely low in

2001, the percentage of citizens expressing dissatisfaction has decreased. Affordable housing also ranked low with respondents as a recommended priority for City leaders. See Exhibit 1.3 for a comparison of satisfaction levels.

The City Manager's Office responded to the CAN report and citizen input by including major housing initiatives in its policy budget for FY 99 and FY 00, and a highlight in its policy budget for FY 01. However, housing is not explicitly included as a priority in the FY 02 policy budget.

EXHIBIT 1.3



SOURCE: City of Austin, Human Resources Department.

In response to the housing crisis, the City Council passed the S.M.A.R.T. Housing Initiative Policy Resolution (#000420-76), with components consistent with best practices and the CAN's findings. In April 2000, the Council passed a resolution comprising reforms, activities, and suggested areas for further research intended to enable increases in the stock of reasonably priced housing, in the medium to long term. The strategies corresponded to CAN's findings, and are recognized in housing literature as viable techniques for reducing housing costs and/or retaining affordable housing.

The reforms referenced in the resolution can be characterized as belonging to the following categories.

- Reforms to infrastructure financing mechanisms.
- Changes in zoning and subdivision controls.
- Reforms to building codes and construction requirements.
- Streamlining of development permitting and processing.

Elements of the S.M.A.R.T. Housing policy are intended to guide the City organization toward enabling more reasonably priced housing. The S.M.A.R.T. Housing policy offered new incentives to aid developers in the creation of affordable housing in the City of Austin, including accelerated processing of applications and decreased discretionary review for affordable

housing projects. The decreased discretionary review refers to the administrative approval of fee waivers. In addition, the policy expanded the waiver of fees from just capital recovery fees to include inspection and permit fees. Two other parts of the resolution policy allowed Austin Housing Finance Corporation (AHFC) right of first refusal on surplus City property identified by City departments that might be suitable for housing and suggested that staff be trained on code guidelines. Staff was directed to explore the viability of administrative approval of zoning applications in affordable housing cases, although this was later found to violate State law.

The resolution also referenced a prior City action, which was consistent with the overarching policy for affordable housing development and retention. This prior action revised the building code to include specific requirements for housing rehabilitation. The resolution also required that staff develop an impact statement on Council actions that could impact housing affordability. In addition, the resolution called for City management to catalogue and implement suggested improvements “identified during the review, construction and inspection of S.M.A.R.T. Housing projects, and the collaboration with other City departments.”

An implicit mandate for a S.M.A.R.T. Housing “program” also originates in the resolution. To implement aspects of the resolution policy, Neighborhood Housing and Community Development (NHCD) has designated two positions that are funded by the General Fund; one of the budgeted positions is restricted from working over 30 hours a week. Staff is located in the Grant Administration division, Compliance Monitoring activity. The “S.M.A.R.T. Housing Program Manager” job description references the following responsibilities:

- Accepts and reviews applications for participation in the program.
- Ensures compliance with requirements.
- Reviews neighborhood plans for impact on housing affordability.
- Acts as liaison with multiple departments involved in the land development process.
- Establishes compliance timelines for project completion.

Ordinance #000420-77, passed on the same day, authorizes the allocation of 1,000 Capital Recovery Fee² waivers, doubling the number of waivers approved for authorization in March 1997 (Ordinance #970305-B). This is in addition to an uncapped allotment of additional development fee waivers.

² The Water and Wastewater Capital Recovery Fee represents a “share” of the cost of the existing water distribution system and facilities, which are designed for a limited number of service connections. W/WW charges this “impact fee” for additions to its infrastructure in order to have all customers equally invested.

OBJECTIVES, SCOPE AND METHODOLOGY

OBJECTIVES

The primary objective of the performance audit was to assess the performance of the City's S.M.A.R.T. Housing program.

The specific sub-objectives were as follows:

1. Evaluate the adequacy of the proposed FY 02 S.M.A.R.T. Housing performance measures:
 - Number of S.M.A.R.T. Housing units certified.
 - Number of S.M.A.R.T. Housing units completed.
2. Assess the number of households served by S.M.A.R.T. Housing in each of the following income categories:
 - = 80% of the area median family income (MFI)
 - = 80% of the area MFI
 - = 50% of the area MFI
 - = 30% of the area MFI
3. Determine the number and type of fee waivers granted since the initiation of the policy in April 2000 and the total dollars waived.
4. Determine reasons for project delays between S.M.A.R.T. Housing certification and completion; specifically, look at barriers in the development process and what the City can do to remove those barriers.
5. Evaluate the processes, procedures, policies, and/or contracts in place to monitor S.M.A.R.T. Housing projects to ensure that:
 - All agreed upon requirements and timelines of the proposed development are met.
 - Procedures are in place to recoup City fees if the agreed upon affordable units are not created or retained.
 - Affordable units are occupied and retained by the target population through the designated affordability period.

SCOPE

The scope of this audit included all housing projects certified through the S.M.A.R.T. Housing process from April 2000 through September 30, 2001. According to Neighborhood Housing and Community Development (NHCD) data provided to the Office of the City Auditor (OCA), this scope includes 47

S.M.A.R.T. Housing projects, which are made up of a total of 5,730 housing units of which 3,697 are designated as reasonably priced. We followed the progression of these projects throughout the course of the Audit, thus are able to report on project status through the end of January 2002.

Our work primarily involved NHCD. We also examined the roles related to S.M.A.R.T. Housing in: Water/Wastewater Utility (W/WW), Watershed Protection and Development and Review (WPDR), and Austin Energy™.

It should be noted that some elements of SMART Housing policy fall outside the scope of this audit. For example, the Resolution directed management to

- explore the feasibility of administrative zoning approval,
- extend the first right of refusal for surplus City land to AHFC for possible housing development,
- issue affordability impact statements prior to actions by City boards or Council, and
- implement a housing rehabilitation code.

We did not audit these elements of the policy, looking strictly at the service that offers specific incentives to housing developers in exchange for the production of affordable housing.

METHODOLOGY

To evaluate the adequacy of the proposed (FY 02) S.M.A.R.T. Housing performance measures, we reviewed and evaluated NHCD and Austin Housing Finance Corporation (AHFC) internal policies, procedures, project management, and performance monitoring systems for S.M.A.R.T. Housing and interviewed NHCD and AHFC staff. We reviewed FY 98 to FY 02 budget documents, the Consolidated Annual Performance and Evaluation Reports for FY 1998 to 2001, and the NHCD Business Plans for FY 01 and 02.

In order to assess the number of households served by S.M.A.R.T. Housing in specified income categories, we analyzed S.M.A.R.T. Housing spreadsheet data provided to OCA and tested S.M.A.R.T. Housing data to determine reliability.

In order to determine the number, type, and amount of fee waivers that have been granted since the initiation of the policy in April 2000, we reviewed and analyzed the Permitting and Inspection Enforcement and Review (PIER) database information and interviewed and obtained additional data from NHCD, W/WW, WPDR, and Infrastructure Systems Support (ISS) staff.

We interviewed NHCD staff and WPDR staff, developers, and contractors, regarding reasons for project delays and barriers that exist in development as well as what can be done to remove these barriers. We also performed a

S.M.A.R.T. Housing project file review and consulted the Community Action Network (CAN) report, *Through the Roof*. In addition, we conducted site visits for approximately half of the developments to corroborate and get firsthand knowledge of project site specifics.

In evaluating the processes, procedures, policies, and/or contracts in place to monitor S.M.A.R.T. Housing projects, we reviewed the following documents:

- S.M.A.R.T. Housing application and questionnaire,
- AHFC Application for Exemption From Payment of Capital Recovery Fee form,
- Development Review and Inspection Fees and Certain Subdivision Construction Inspection Fees form,
- S.M.A.R.T. Housing Fee Exemption Program form, and
- Council Resolution Number 000420-76.

We also interviewed a City staff attorney regarding the legal use of the S.M.A.R.T. Housing application as a contract.

This audit was conducted in accordance with generally accepted government auditing standards.

CHAPTER 2

PROGRAM DESCRIPTION

S.M.A.R.T. Housing is both a City housing policy and a program that awards incentives for the production of reasonably priced housing units.

According to the Neighborhood Housing and Community Development (NHCD) office's business plan and the City's *S.M.A.R.T. Housing Guide*, the primary objective of the S.M.A.R.T. Housing policy is to stimulate the production of reasonably priced housing units for low and moderate-income residents of Austin.³ While the S.M.A.R.T. Housing policy outlines several strategies aimed at accomplishing this objective, specific programmatic aspects of S.M.A.R.T. Housing have evolved. Specifically, the policy spawned a program that awards City-based incentives in the form of fee waivers and an expedited development review and inspection process to S.M.A.R.T. Housing developers. In exchange, these developers agree to produce reasonably priced, energy efficient, accessible housing units.

S.M.A.R.T. Housing is not synonymous with the City's Smart Growth Initiative though they share some of the same policy objectives. However, developers, Council Members, and City employees involved in the S.M.A.R.T. Housing process have used the terms interchangeably, indicating their potential confusion regarding these two City initiatives.

Further, while S.M.A.R.T. Housing is an affordable housing-based initiative, not all S.M.A.R.T. Housing units are affordable housing units. The City's *S.M.A.R.T. Housing Guide* developed by NHCD staff uses the terms reasonably priced, affordable, and S.M.A.R.T. interchangeably; however, only 65 percent of the proposed S.M.A.R.T. Housing units are slated to be reasonably priced.

S.M.A.R.T. Housing is an affordable housing-based initiative that encompasses several supplementary policy objectives. In addition to affordability criteria, S.M.A.R.T. Housing projects must meet additional sustainability and accessibility requirements. In fact, S.M.A.R.T. is an acronym with letters that represent independent policy objectives.

³ The *S.M.A.R.T. Housing Guide* is a publication of NHCD.

Housing that is S.M.A.R.T. is intended to be:

- Safe
- Mixed-income
- Accessible
- Reasonably priced
- Transit-oriented.

Additionally, S.M.A.R.T. Housing criteria require that all new construction meet Austin Energy's™ Green Building standards for energy efficiency. See Exhibit 2.1 below, which describes the S.M.A.R.T. Housing criteria in more detail.

EXHIBIT 2.1
S.M.A.R.T. Housing Participation Criteria

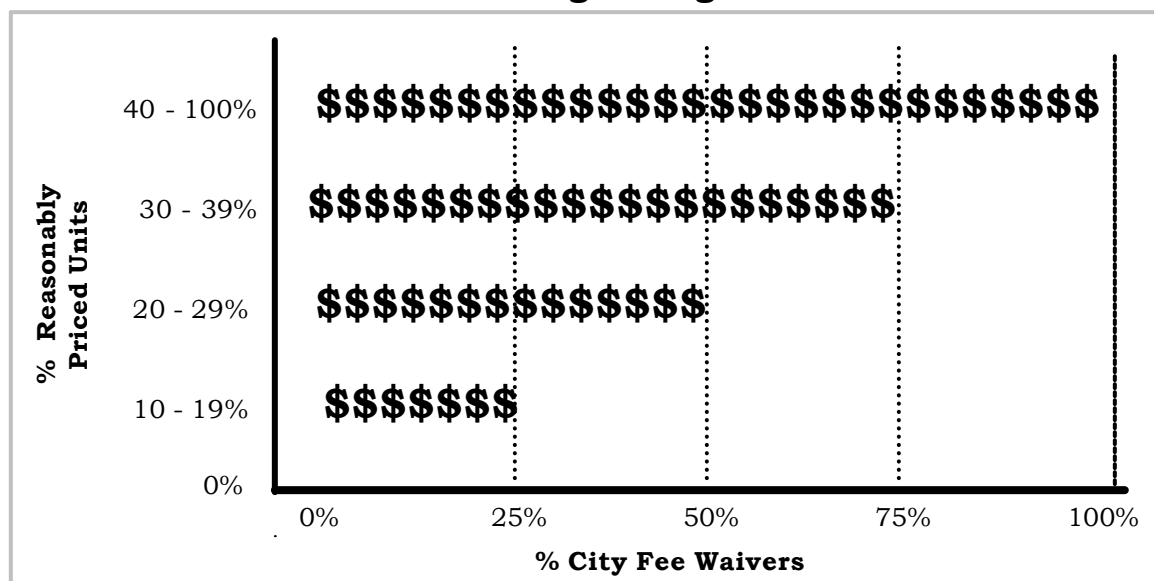
S	<u>S</u> AFE	Housing that meets the City's new construction standards (including the Building, Electrical, Energy, Fire, Mechanical, and Plumbing Codes) for newly constructed housing, or housing that meets the Housing Code and Rehabilitation Code standards for rehabilitation of existing homes.
M	<u>M</u> IXED-INCOME	Housing for low- to moderate-income families as well as families that are not served by federally funded programs.
A	<u>A</u> CCESSIBLE	Housing that is accessible to those with mobility, hearing, or vision impairments or who have been diagnosed with AIDS; and that meets the City's Building Code, Visitability and Voluntary Compliance standards as well as other federal and state accessibility standards. These accessibility standards are required on all new construction receiving financial assistance from the City.
R	<u>R</u> EASONABLY PRICED	Housing available to families who earn no more than 80% of median family income and spend no more than 30% of their monthly income on housing.
T	<u>T</u> RANSIT-ORIENTED	Housing located within 1,000 feet of a major Capital Metro bus route, a Smart Growth transportation corridor, or a proposed light rail line.
E	<u>E</u> NERGY-EFFICIENT	Housing that meets Austin Energy™'s Green Building Level 1 standards for "Sustainable Building Practices." The residential Green Building Program rates homes using "green" guidelines on a scale of one to five stars: the more stars the more green features in the home.

SOURCE: City of Austin's *S.M.A.R.T. Housing Guide* (undated) and Austin Energy™'s Green Building program website (December 31, 2001).

The City offers fee waivers to developers in exchange for the production of S.M.A.R.T. Housing units. According to the City's *S.M.A.R.T. Housing Guide*, developers who agree to make a portion of their developments reasonably priced and comply with the other program requirements will be eligible to receive full or partial fee waivers. Specifically, the S.M.A.R.T. Housing resolution provides for the waiver of thirty types of development-related fees including land development fees (zoning, subdivision, site plan); building permit and inspection fees; subdivision construction inspection fees; and water and wastewater capital recovery (impact) fees. See Appendix B for a full list of the types of fee waivers authorized by the S.M.A.R.T. Housing resolution as well as the departments responsible for issuing those waivers.

S.M.A.R.T. Housing projects that involve the development of four or fewer lots are required to be 100 percent reasonably priced, while fee waiver incentives for larger projects are awarded according to the sliding scale shown in Exhibit 2.2. As the graphic indicates, a developer can be eligible for full (100 percent) fee waivers by making 40 percent or more of a proposed development reasonably priced, while as little as 10 percent reasonably priced units can result in partial (25 percent) fee waivers.

EXHIBIT 2.2
S.M.A.R.T. Housing Sliding Fee Waiver Scale



SOURCE: OCA adaptation of information presented in the *S.M.A.R.T. Housing Guide* (undated).

The City Manager also authorized an expedited development review and inspection process as an incentive for S.M.A.R.T. Housing projects. In August 2000, the City Manager issued a memo implementing a pilot proposal to expedite the review and inspection processes for projects that met certain City Council priorities for affordable housing and economic development. This memo specifically included S.M.A.R.T. Housing projects as identified by NHCD. According to the memo, the pilot project included expediting the four elements

of the review process: zoning, subdivision, site plan, and building permit and inspection. Additional information regarding the development review process is discussed later in this report.

Certified S.M.A.R.T. Housing projects are those that have been approved to receive program incentives in exchange for producing housing units that meet S.M.A.R.T. Housing criteria. S.M.A.R.T. Housing certification involves a front-end review of development plans for project compliance prior to authorization for City incentives. In order to be eligible for development incentives, developers must submit an application consisting of preliminary project plans to the S.M.A.R.T. Housing program manager who reviews the plans for compliance with S.M.A.R.T. Housing requirements. If the preliminary plans indicate compliance with established criteria, the S.M.A.R.T. Housing program manager approves the plans and certifies that the project is eligible to receive the program incentives and enter the City's development review process.

Though they share some of the same policy objectives, S.M.A.R.T. Housing is not synonymous with the City's Smart Growth Initiative. In order to adequately assess results and clearly establish accountability, the City's S.M.A.R.T. Housing initiative must be distinguished from other City policies and initiatives with different overall goals and objectives. We found, however, during the course of the audit that many S.M.A.R.T. Housing stakeholders including developers, elected officials, and City employees involved in the execution of the program have used the terms S.M.A.R.T. Housing and Smart Growth interchangeably indicating potential confusion about the two policies.

S.M.A.R.T. Housing and Smart Growth are not formally linked, and though they share some sustainability-oriented objectives, the initiatives have different overall goals. Most importantly, Smart Growth can, but does not necessarily, incorporate the affordable housing component that is central to the S.M.A.R.T. Housing initiative. According to the City's website, "Smart Growth describes the efforts of communities across the country to manage and direct growth in a way that minimizes damage to the environment, reduces 'sprawl', and builds livable towns and cities." The information presented in Exhibit 2.3 can be used to compare and contrast S.M.A.R.T. Housing and Smart Growth in more detail.

EXHIBIT 2.3

S.M.A.R.T. Housing versus Smart Growth

S.M.A.R.T. Housing	Smart Growth
Definition	
Affordable -housing based initiative designed to facilitate the production of housing that is S afe, M ixed-income, A ccessible, R easonably priced, T ransit-oriented and energy efficient.	Describes efforts to manage and direct a community's growth in a way that minimizes damage to the environment, reduces sprawl, and builds livable towns and cities.
Goals	
Stimulate the production of reasonably priced housing units.	Determine how and where Austin grows. Improve Austin's quality of life by preserving and enhancing neighborhoods Enhance the City's tax base.
Product	
Housing - a portion of which must be reasonably priced.	Commercial development or residential/housing development; does not have to contain reasonably priced units.
Approval Body	
Administrative approval by the S.M.A.R.T. Housing program manager when the project meets all current codes.	Approval by the City Council.
Approval Criteria Requires City Council approval.	
Project approval based on planned compliance with City building codes, accessibility standards, affordability criteria, transit orientation, and energy efficiency standards.	Projects are scored using the City's Smart Growth Criteria Matrix in 12 weighted categories including project location, land use, urban design, transportation, parking, reasonably priced housing, and sustainable building practices.
Participation Incentives	
Expedited development cycle times and development fee waivers available anywhere in the City limits if criteria are met.	Expedited development cycle times and development fee waivers available only in the desired development zone (DDZ).

SOURCE: S.M.A.R.T. Housing Guide (undated), Resolution 000420-76, and the City's Smart Growth website (January 15, 2002).

Approximately 35 percent of the S.M.A.R.T. Housing units proposed to date are not reasonably priced. Though the City's *S.M.A.R.T. Housing Guide* uses the terms S.M.A.R.T. and reasonably priced interchangeably, S.M.A.R.T.

units are not necessarily reasonably priced housing units. Current reporting methods used by NHCD do not clearly reflect the fact that over one third of the units planned for production through this affordable housing-based initiative will not be affordable according to NHCD criteria or federal housing standards. NHCD currently reports results of S.M.A.R.T. Housing as 'S.M.A.R.T. units certified' and 'S.M.A.R.T. units completed', but does not distinguish between reasonably priced and non-reasonably priced S.M.A.R.T. housing units. Between April 20, 2000 and September 30, 2001, the S.M.A.R.T. Housing program manager "certified" 47 housing projects consisting of a proposed 5,730 housing units to participate in the S.M.A.R.T. Housing fee incentive program. Of those, 3,697 housing units (65 percent) are slated to be reasonably priced and available to families at or below 80 percent of the area median family income. However, the remaining 2,033 units (35 percent) will be available for sale or lease to families with incomes higher than the 80th percentile.

CHAPTER 3

PROGRAM PERFORMANCE

S.M.A.R.T. Housing is having a positive effect on reasonably priced housing in Austin.

Although the program has been in existence just under two years, S.M.A.R.T. Housing has already experienced measurable results. Forty-seven projects were certified to receive S.M.A.R.T. Housing incentives in the first 17 months. Specifically to date, 329 reasonably priced, S.M.A.R.T. units have been completed. Reasonably priced units benefiting from program incentives are expected to include both multi-family and single-family units, and serve very low to moderate-income households. Certification data indicates that tax credit-financed projects, as well as private-funded projects, have shown interest in the program. Permit and inspection data shows that 608 proposed reasonably priced units have not moved forward into the development review process since NHCD approved their eligibility for the program. The remaining 2,760 units are in some phase of the review process.

To date, 329 reasonably priced S.M.A.R.T. Housing units have been completed. As of January 31, 2002, construction was completed and certificates of occupancy were issued for these 329 units, 284 apartments and 45 single-family homes. Most of these projects that have completed units were under development prior to project certification, or prior to the creation of the S.M.A.R.T. Housing program itself. Detailed information regarding the progress of all S.M.A.R.T.-certified projects through the development cycle is presented below.

Certified S.M.A.R.T. units include multi- and single-family housing, which are available to families with very low to moderate household incomes.

Between April 20, 2000 and September 30, 2001, NHCD authorized 47 projects to receive fee waivers and go through the S.M.A.R.T. Housing expedited review process. These projects comprise 3,697 units planned to meet S.M.A.R.T. Housing affordability, accessibility, and green building criteria. In addition, 2,033 certified units are intended for families with incomes greater than 80 percent of median family income, but are required to meet S.M.A.R.T. Housing's accessibility and energy efficiency policy objectives.

Twenty-four percent (875) of the planned reasonably priced units are single-family and the rest are multi-family units, e.g., apartments or town homes.

The 3,697 reasonably priced units are expected to serve the S.M.A.R.T.

Housing range of incomes:

- 2 percent of planned reasonably priced units are for households with incomes 30 percent median family income (MFI) and below;
- 30 percent for households with incomes 30-50 percent MFI;
- 28 percent for households with incomes 50-60 percent MFI; and
- 40 percent for households with incomes 60-80 percent MFI. (See Exhibit 3.1.)

S.M.A.R.T. Housing projects use federal, state, local, and private sources of financing in addition to fee waivers. Affordable housing financing typically comes from multiple sources. Exhibit 3.1 lists projects participating in the S.M.A.R.T. Housing program broken out by public financing institutions providing any portion of a project's financing; conventional projects are those financed entirely with private investment and fee waivers. Projects using finance tools offered by Austin Finance Housing Corporation (AHFC), the nonprofit subsidiary of the City's NHCD office, are required to participate in S.M.A.R.T. Housing. Other program participants elect to participate based on the attractiveness of program incentives. For example, NHCD collaborates with developers who have been awarded low-income housing tax credits by the Texas Department of Housing and Community Affairs (TDHCA). Further, NHCD can expect greater opportunities to partner with developers as the award of tax credits locally increases.

EXHIBIT 3.1 S.M.A.R.T. Housing Financing

Funding Source (a)	Number of projects	Proposed reasonably priced units	Proposed reasonably priced units by population served							
			80% MFI		60% MFI		50% MFI		30% MFI	
			SF	MF	SF	MF	SF	MF	SF	MF
AHFC (b)	28	1,660	430	146	50	528	19	456	0	31
TDHCA	10	1,232	0	359	0	213	0	625	0	35
HUD Sec 108	1	248	0	0	0	248	0	0	0	0
Conventional	8	557	376	181	0	0	0	0	0	0
Total	47	3,697	806	686	50	989	19	1,081	0	66

SOURCE: Data from NHCD describes projects certified between April 20, 2001 and September 30, 2001.

Note a: If a project utilizes any public financing tool, in any amount, it is counted in the AHFC, TDHCA or HUD line item.

Note b: AHFC projects are required to participate in the S.M.A.R.T. program.

Abbreviations: SF – single-family; MF- multi-family.

S.M.A.R.T. Housing projects have progressed through the program cycle to various stages of development. Between April 20, 2000 and September 30, 2001, NHCD authorized 47 different housing projects comprising 5,730 housing units to receive fee waivers and go through the S.M.A.R.T. Housing expedited review process. Before a S.M.A.R.T. Housing project can be completed (i.e., receive a certificate of occupancy), the project must be certified by the program manager, and then enter and pass through the Watershed Protection and Development Review department's development review and inspection process. For a S.M.A.R.T. Housing project there are up to eight stages of development from certification to occupancy. The following stages are defined in Appendix D.

- Stage 1: Certification by NHCD
- Stage 2: Pre-submittal meeting (for selected projects)
- Stage 3: Development assessment (optional)
- Stage 4: Zoning
- Stage 5: Subdivision
- Stage 6: Site plan
- Stage 7: Building plan review and permit issuance
- Stage 8: Inspection and Certificate of Occupancy

S.M.A.R.T. Housing certifications are issued for entire single-family or multi-family projects, but the units within those projects may move through the development process to occupancy at different paces. For example, one S.M.A.R.T. Housing project is a subdivision consisting of 107 housing units. These units were certified under S.M.A.R.T. Housing and entered the development process as one project; however, the units have progressed through that process at different paces. Some of the units have been completed and have received certificates of occupancy, but some remain under construction. Thus, the information that follows about the status of S.M.A.R.T. Housing projects is presented in terms of the progression of individual housing units instead of housing projects.

Although 438 S.M.A.R.T. Housing units have been issued certificates of occupancy, twenty-two percent of the proposed S.M.A.R.T. units (1,277 units) have not moved forward from initial certification into the land development review process. Half the proposed units that are unfinished (2,859 units) remain in the development review stage. The final quarter of uncompleted units (1,156 units) have been issued building permits and are currently under construction. See Exhibit 3.2, which summarizes the current stages of S.M.A.R.T. Housing units.

EXHIBIT 3.2
S.M.A.R.T. Housing Units in
Different Stages of the Development Cycle

		TOTAL UNITS	REASONABLY PRICED UNITS	NONREASONABLY PRICED UNITS
Certification Stage		1,277	608	669
Land Development				
	Zoning	1,498	708	790
	Development Assessment	394	307	87
	Subdivision	543	361	182
	Site Plan	424	298	126
	Total	2,859	1,674	1,185
Building permit and inspection		1,156	1,086	70
Certificate of Occupancy		438	329	109
Total		5,730	3,697	2,033

SOURCE: Auditor analysis of data in the City's PIER system for projects certified through September 30, 2001. Data was retrieved in January 2002.

S.M.A.R.T. Housing fee waiver costs to date total more than \$1,214,000.

The most significant costs to the City associated with S.M.A.R.T. Housing are in the form of revenue lost due to the waiver of development review and inspection fees and water and wastewater capital recovery impact fees. The Watershed Protection and Development Review (WPDR), Water and Wastewater (W/WW), and Public Works (PW) departments incur the primary costs of S.M.A.R.T. Housing because these are the departments that issue the fee waivers. Because the fees waived are not accurately tracked (discussed in a later section of this report), determining the amount in fees that was actually waived for these projects was difficult. However, in-depth research using project specific information in the City's Permit, Inspection, Enforcement, and Review (PIER) system, indicates that these three City departments have foregone a total of approximately \$1,214,000 in revenue due to S.M.A.R.T. Housing projects, authorized to receive fee waivers between April 20, 2000 and September 30, 2001. Exhibit 3.3 breaks down the determinable fees waived to date per department for these S.M.A.R.T. Housing projects. For the entire list of fee types eligible for waiver per the S.M.A.R.T. Housing resolution see Appendix B.

EXHIBIT 3.3
S.M.A.R.T Housing Fees Waived per City Department
As of January 31, 2002

WATERSHED PROTECTION DEVELOPMENT REVIEW	
Land development fees (zoning, subdivision, site plan)	\$49,126
Permit and inspection fees	\$426,743
WATER AND WASTEWATER	
Capital Recovery Fees	\$602,000
PUBLIC WORKS	
Construction Inspection Fees	\$136,206
TOTAL FEES WAIVED	\$1,214,075

SOURCE: City of Austin PIER system. Data is for projects certified within the period April 20, 2000 through September 30, 2001.

Two factors have significantly helped keep developers involved in producing affordable housing.

Two initiatives by City staff have contributed to improved participation in affordable housing development.

- Advocacy by NHCD staff on behalf of developers to overcome barriers in the development process.
- Reduced duration in application review by WPDR staff.

WPDR staff achieved goals set for initial review of development plans, but application cycle time goals were only partially met.

Advocacy by program staff at critical junctures in the development process has helped to avoid project failures and barriers to development.

Development process advocacy by NHCD staff has been an unforeseen benefit of participation in the S.M.A.R.T. Housing program, though not explicitly mentioned in the S.M.A.R.T. Housing Initiative Policy resolution. NHCD has assumed the role of “champion” for affordable housing objectives beyond the housing department. A contributing reason for filling this role is likely insufficient Citywide buy-in and coordination, and as-yet incomplete reform of the WPDR review process and W/WW utility process.

The impact of advocacy is not easy to quantify; we cannot know if without such assistance a project would have failed to acquire final approvals and reach completion, or whether these would have been merely delayed. However, anecdotal information suggests that interventions made when problems

occurred made a significant difference. We gathered the following examples of the type of assistance or advocacy program participants received.

- A developer reported that if the S.M.A.R.T. Housing staff had not briefed him on options that the City's rezoning process allowed, he would have not continued his affordable housing project.
- Staff persisted until land rights issues were resolved on a major subdivision project.
- Meetings prior to application submission were invaluable in reviewing the types of things one encounters in the development process.
- Another builder reported that staff provided assistance when delays occurred with W/WW service connections.

An area where the impact of project advocacy, by City staff and the City Council, can be estimated is rezoning. Of ten certified program projects that filed for rezoning in the first 18 months of the program, eight successfully acquired the necessary zoning. These eight projects comprised 776 proposed units of reasonably priced housing.

- Five of the eight approved projects were multi-family developments.
- Half of the eight approved projects proposed all units would be reasonably priced; the remaining four projects proposed 60 percent or fewer of their units would be reasonably priced.

The two rejected projects were multi-family developments. While approval of zoning by no means assures a project's success, zoning is the essential first step in land development.

Although development review process times improved not all cycle time goals were met. In addition to the advocacy by NHCD staff, Watershed Protection and Development Review assigned a dedicated review team for all S.M.A.R.T. Housing projects and set goals to reduce application cycle times. As mentioned previously, in August 2000 the City Manager approved an expedited review and inspection pilot for S.M.A.R.T. Housing. This pilot project established specific review and cycle time goals for applications related to S.M.A.R.T. Housing multi-family and single-family subdivision developments. However, although process times improved, goals were not consistently met.

At the time of the City Manager's memo, the development review cycle times were extremely lengthy. In fact, plan review and approval for new subdivisions, which did not require rezoning, were taking up to a year and a half. Projects requiring rezoning could take longer. According to NHCD management, the slow turnaround times discouraged developers from building affordable housing units in the City due to increased costs and red tape associated with the lengthy process.

Since the beginning of the pilot project, WPDR not only expedited S.M.A.R.T. housing projects, but has taken significant steps to reduce review cycle times for all development projects. Enhancements to the development review process

relate to timeliness of the process. The two areas of importance in assessing timeliness are

- initial review times and
- application cycle times.

Initial review is the first time a project is formally submitted as a subdivision or site plan. The review includes all disciplines such as slope grades for water runoff and street or water line infrastructure placement. The initial review time is the number of days from submittal of an application until a complete review comment report from WPDR is sent to the applicant. Application cycle time is the number of days from initial application date to final approval date. Applicant revisions are usually required before final approval and add additional days to the cycle. Improvement has been particularly good in initial review times.

WPDR divides all applications for review into four categories and performance is reported by category. Goals for the pilot program were based on the following categories of review.

- Subdivision – specific considerations include the shape of a site, lot and/or tract size, circulation, street layout, drainage and grading, floodplain, and environment concerns.
- Site Plan – a drawing that depicts the intensity, density, height and setbacks of a proposed project to the site itself, along with drainage, landscaping, sidewalk, and other site construction issues.
- Commercial – buildings containing more than two units (duplex).
- Residential – single family infill (units built in existing subdivisions).

WPDR met *initial review time* pilot goals for S.M.A.R.T. Housing. WPDR achieved the pilot goals for S.M.A.R.T. Housing project applications initial review turn around times 100 percent of the time, in all four categories. See Exhibit 3.4 for details on the goals and the actual averages review times. Pilot goals are not part of the Land Development Code and do not apply to projects requiring variances, which are generally more complicated and require approval of boards and commissions.

EXHIBIT 3.4
Pilot Goals and Achievements FY 01
Initial Review Times Of All Application Types

CATEGORIES	PILOT GOALS	ACTUAL AVERAGE TIME	PERCENT OF APPLICATIONS ON TIME
S.M.A.R.T. Housing Subdivision	14 working days	12.33 working days	100%
S.M.A.R.T. Housing Site Plan	7 working days	4.47 working days	100%
S.M.A.R.T. Commercial Bldg	7 working days	7.00 working days	100%
S.M.A.R.T. Housing Residential	2 working days	1.46 working days	100%

SOURCE: Excerpt from DRID/WPDR Pilot Proposal to Expedite Review of S.M.A.R.T. Housing/Economic Development and Smart Growth Projects September 21, 2000; unaudited data from manager of Infrastructure Support Services (ISS) Data Integration – “Review Report Turnaround Time.”

S.M.A.R.T. Housing *application cycle* times did not meet aggressive pilot project goals in three of the four application review categories. During FY 01, WPDR improved average application turnaround time in days for all projects; however, in three of the four categories of application review, S.M.A.R.T. Housing projects were not within the pilot average cycle times. Only S.M.A.R.T. residential review met its pilot goal of three days. The application cycle time includes the initial review time, applicant response time, update review time, and applicant response time for the update(s). Exhibit 3.5 shows, for comparison, the average time recorded for each review category in October 2000 and the actual average time recorded by WPDR during the period under study. Additional information on cycle times for all four categories can be found in Appendix C.

EXHIBIT 3.5
Pilot Goals and Achievements FY 01
Application Cycle Times

CATEGORIES	AVERAGE TIME IN OCTOBER 2000^a	PROPOSED AVERAGE CYCLE TIME	ACTUAL AVERAGE CYCLE TIME	ASSESSMENT OF GOALS TO ACTUAL
S.M.A.R.T. Housing Subdivision	190 days	30-60 days	77 days	Did not meet goals
S.M.A.R.T. Housing Site Plan	140 days	30-60 days	100 days	Did not meet goals
S.M.A.R.T. Commercial Bldg	107 days	30 days	50 days	Did not meet goals
S.M.A.R.T. Housing Residential	9 days	3 days	3 days	Met goals

SOURCE: OCA analysis of data from: Excerpt from DRID/WPDR Pilot Proposal to Expedite Review of S.M.A.R.T. Housing/Economic Development and Smart Growth Projects September 21, 2000; unaudited data from manager of ISS Data Integration – “Review Report Turnaround Time.”

Note a: October 2000 is the first month for which ISS had data available for all projects.

Aggressive pilot goals and site-specific issues may have contributed to the application cycle time goals not being met. Further, application cycle times are dependent on the applicant’s responding quickly to initial and later review comments from WPDR staff.

NHCD and WPDR departments are continuing discussions on ways to tailor timely and reasonable review processes for affordable housing developers. Time saved by solving problems can also translate into interest savings for some developers. One developer reported that other benefits of accelerated review include greater assurance that contractors will stay on the current job and not leave for other jobs, the housing need can be met sooner, and requirements for bond authority financing, if it’s being used, can be easily met within mandated timeframes. The new approach is “enlightened,” this developer added.

In the period under review, market-rate developments have produced few reasonably priced S.M.A.R.T. Housing units.

According to NHCD’s FY 02 business plan, a key department goal of FY 00 was to “expand partnerships with profit and nonprofit organizations to leverage resources to increase housing.” In this plan, S.M.A.R.T. Housing is the one initiative highlighted for meeting this goal. By waiving fees through S.M.A.R.T. Housing, NHCD alleviates the cost of regulatory requirements and contributes to project financing. Under the S.M.A.R.T. Housing resolution, the interest in partnering with NHCD from the private sector’s market rate housing developers has comprised several subdivisions and a few infill projects. However, some

projects are not progressing through the development process as quickly as others, making the outlook for completion of several projects uncertain. As of November 2001, 12 units had been sold to income eligible households.

The City of Austin has followed precedents set in other U.S. cities by agreeing to waive or modify fee requirements in the development of low and moderate-income housing without regard to the profit status of the developer. A significant element of the S.M.A.R.T. Housing policy was the creation of a new financing mechanism, whereby any developer, private or nonprofit, became eligible to receive financial and service incentives for contributing to affordable housing stock. In order to receive these incentives, the new housing stock has to serve families making 80 percent or less of the area's median income.

These incentives have enabled NHCD to offer a basis for partnering with builders who use only conventional financing for their projects, in addition to its traditional relationships with nonprofit organizations.⁴ Among municipal housing policies, this element of S.M.A.R.T. Housing policy structure belongs to the category of "incentive zoning" programs, which offers incentives for contributing to a jurisdiction's affordable housing objectives. Other cities have legislated "inclusionary zoning" policies comprising unique mixes of

- mandatory unit set-asides for specified income levels, or
- payments in-lieu of units in new market-rate subdivisions that are not available for low- and moderate-income families, or
- affordability-period controls and regulatory inducements, or
- all of the above.

Inclusionary zoning policies are mandatory, while incentive zoning policies such as S.M.A.R.T. Housing are voluntary.

During our review period, NHCD certified ten projects that were to be public-private partnerships.⁵ Of these ten proposed projects slated as public-private partnerships, eight proposed to use only nongovernmental funds and fee waivers, and the other two intended to also participate in the mortgage credit certificate (MCC) program of AHFC.⁶ Seven were subdivisions, three were infill projects, and affordable unit set-asides in these developments averaged 48 percent. Original proposals estimated 706 reasonably priced multi- and single-family units in these ten projects, or 19 percent of all proposed reasonably

⁴ In addition, NHCD now also has a basis with which to partner with builders using State awarded tax-credits. See page 16.

⁵ This use of the term public-private partnership refers to a category of partnership, namely NHCD/City collaboration with market-rate, affordable housing developers. NHCD staff, however, use the term to refer to all of its affordable housing projects collectively, including for example, projects financed with AHFC-issued bonds, and tax-credit projects.

⁶ Mortgage credit certificates allow the holder to take a credit on their federal income tax liability of up to 20 percent of the annual mortgage loan interest paid throughout the life of the loan.

priced units; twenty-six percent (181) of the affordable units were slated as multifamily. The two projects using MCCs, Springfield Phase B Section 1, and Springfield Phase B Sections 2, 3 and 4, are included in the AHFC line item in Exhibit 3.6. One distinguishing factor in using MCCs is that the builder can serve 80 to 120 percent median family income homebuyers, at the same time producing units considered reasonably priced for households at 80 percent MFI and below.

However, completion of half these projects is uncertain. Of the ten projects:

- two have broken ground, or achieved a level of occupancy,
- three have reached subdivision application review stages since November 2001, and
- five have shown no action in over five months, according to PIER.

These market rate projects do not focus on serving very-low-income families. Of all ten projects, none were originally planned to serve households at or below 60 percent of the median family income. Despite this, one project has two occupants in the 40 to 60 percent MFI income range. Faced by profit and financing constraints, private builders have not proposed serving incomes in the range of 30 to 60 percent MFI. This segment of the housing market is generally served by nonprofit organizations that make it their mission to address social and economic issues in addition to housing needs faced by low-income families. Also, when reasonably priced housing is not the developer's sole objective, emphasis is not placed on the income level of the prospective occupants. Instead, units can be rented or sold on a first-come basis.

Springfield Village Phase B Section 1, built by KB Homes, is the first conventionally financed project with completed and occupied units.

Development at Springfield began prior to the S.M.A.R.T. Housing resolution, hence its advanced stage. NHCD certified this project in March 2001, the first home was sold July 2001, and by November 30, 2001 KB had closed on 67 single-family homes. KB reports that 12 of those units were sold to income eligible households at or below 80 percent MFI, which is significantly less than proposed at the certification stage. In addition:

- Although the original, certified project proposal anticipated all reasonably priced units in the development would serve households at 80 to 60 percent MFI, two units have been sold to families in the 45 to 60 percent MFI range.
- Prices of the 12 houses range from \$118,950 to \$151,815.
- As the Exhibit 3.6 shows, the average affordability indicator is 34 percent. Significantly lower interest rates in the last year enable families to qualify for more expensive homes in 2001 than would have been possible two years ago.

Significantly, of the 12 homes sold to income-eligible families, incomes average 69 percent of MFI. A concern, or risk, that private sector participation would serve only the uppermost of eligible incomes, i.e., the 80th percentile of median income, did not materialize in this case.

EXHIBIT 3.6
SPRINGFIELD VILLAGE, SECTION 1
Affordable Housing Characteristics

	ALL SPRINGFIELD	REASONABLY-PRICED UNITS - £ 80% MFI
Proposed units	107	43 (40% of all)
Sales, as of November 31, 2001	67	12 (18% of all sold)
Average sales price	\$149,542	\$135,086
Average buyer income	102% MFI	69% MFI
Average household size	2.87	3.5
Average PITI-to-income ratio ⁷	NA	34%

SOURCE: KB Homes, November 2001. This data is not audited.

KB Homes is unlikely to close on the number of units originally proposed for income-eligible families. With over half of the units in Section 1 sold, the rate of sales in the subdivision indicates that 18 percent of buyers have been income-eligible. While KB originally proposed that 40 percent of Springfield units could meet reasonably priced and other S.M.A.R.T. Housing requirements, the company reports that its inability to anticipate “who comes in the door” to buy the product dictates final results. S.M.A.R.T. Housing staff report that fee waivers – based on proposed level of service, authorized at certification and ensured through use of a bond – will be adjusted accordingly.

Improved quality of new affordable housing stock depends on compliance with S.M.A.R.T. Housing program requirements.

As outlined in Chapter 2, the S.M.A.R.T. Housing policy requires all units conform with accessibility specifications and with Austin Energy’sTM Level One Green Building specifications, which are not imposed by the building code at this time. Some non-profit organizations have been producing reasonably priced homes that meet these two criteria since before the resolution became effective. But the building of multi-family complexes to Green-Building standards has little precedent in the City or nationwide.

⁷ Mortgage includes principle, interest, taxes and insurance (“PITI”).

Recommendation:

01. To continue attracting developer participation in S.M.A.R.T. Housing, the Community Development Officer should collaborate with the directors and staff of Watershed Protection and Development Review, Water Wastewater, and Public Works to develop and implement cost-reduction strategies other than fee waivers and expedited review for affordable housing development in Austin, and remove barriers to development of low-moderate housing in the Austin market.

MANAGEMENT RESPONSE: Concur/Underway.

NHCD concurs with the recommendation to develop and implement new incentives for and remove barriers to the development of reasonably priced housing.

Underway: NHCD will collaborate with the various departments on policy options and potential impacts. Revisions to the S.M.A.R.T. Housing Resolution and the Land Development Code will be scheduled for City Council action following stakeholder discussions. We anticipate this occurring prior to next fiscal year.

CHAPTER 4 PROGRAM DESIGN

Current S.M.A.R.T. Housing performance measures are insufficient for assessing results and holding staff accountable.

During the City's business planning and budget processes, NHCD selected two key performance measures, "number of S.M.A.R.T. housing units certified" and "number of S.M.A.R.T. housing units completed." The use of these measures to report performance presents numerous problems. First of all, "S.M.A.R.T. units" is not synonymous with units for families of low- to moderate-income, despite the fact that the program's charge is to serve these households through the creative means outlined in the S.M.A.R.T. Housing resolution. Second, the number of certified and completed units, while they are important measures of program output, are not sufficient for holding staff accountable. A family of measures is needed to reflect what S.M.A.R.T. Housing staff routinely do. Third, NHCD does not present these two output measures under the relevant budget service, but rather attributes them to a separate budget program, the Housing Development Program. Finally, performance reporting is hindered by inconsistent and incomplete data collection.

"S.M.A.R.T." Housing units are not exclusively "reasonably priced." The explicit intent of the S.M.A.R.T. Housing initiative is to enable development of affordable housing for families having incomes below 80 percent MFI. But measures of "S.M.A.R.T. Housing units" do not address this intent. A S.M.A.R.T. Housing unit can serve any income, unless specifically designated as a reasonably priced unit.

NHCD staff have routinely referred to the measure "certified S.M.A.R.T. Housing units" when reporting performance. For example, NHCD staff recently announced that 5,700 housing units had been certified, without stating that only approximately 3,700, or 65 percent, of the proposed units will be for low- to moderate-income families. In another example, in the approved FY 02 budget, staff estimated 4,000 units had been certified in FY 01; records show that 4,115 units were certified in FY 01 and of that number only 2,970 were for income eligible families.

Reported measures are insufficient to hold S.M.A.R.T. Housing staff accountable. While the number of units certified and completed may be appropriate measures of S.M.A.R.T. Housing service results, NHCD lacks measures that relate to other significant staff activities, such as application intake and review responsibilities, affordability impact reports, and case management-type activities. A "family of measures" is necessary to adequately reflect operational performance and progress toward objectives. Alone, the two

current measures misleadingly suggest that S.M.A.R.T. Housing staff is engaged in housing construction and “completion.” A better measure may be the number of projects or units assisted by staff during the development review and zoning phases.

The FY 02 business plan provides guidance for selecting improved measures, stating that a purpose of the S.M.A.R.T. Housing service is to leverage financial resources. Dollars leveraged through the selection of program-eligible projects would thus reflect progress in fulfilling this objective. Also, a measure of average fees waived to anticipated property tax revenue would be appropriate. Another viable measure may be costs avoided when affordability impact statements are acknowledged and fiscal impacts on affordable housing are adjusted.

Reported measures are not aligned with S.M.A.R.T. Housing services, further obscuring accountability. NHCD has not aligned the S.M.A.R.T. Housing measures with the relevant service operation. While the S.M.A.R.T. Housing staff is budgeted in the Grants Administration Program, the two measures are assigned to and reported by the Housing Development Program. To establish accountability for performance, alignment of budgeted staff with measures is essential.

Current reporting methods could be misleading. NHCD, in its current business plan, does not relate the performance of its programs and activities to “global” indicators, such as the “number of households needing affordable housing” or the “supply of affordable housing.” Rather, the department conveys its efforts to improve such global indicators by reporting outputs – namely, “units created or retained.” A danger is that “S.M.A.R.T. Housing units completed” could be construed as a direct impact on global indicators, not merely upon NHCD outputs. As shown in Chapter 3, the S.M.A.R.T. Housing program facilitates production of affordable housing, by assisting development projects, providing small financial incentives, and continuously looking for ways to reduce costs to developers. Assessing the S.M.A.R.T. Housing policy and program impacts on new affordable stock, then, will require more sophisticated means than reference to performance accountability measures.

Data collection and reporting are inadequate to assess or ensure program performance and policy successes. Management of the S.M.A.R.T. Housing activity does not have adequate data to report outcomes. Documentation for the S.M.A.R.T. Housing program consists of paper files and spreadsheet information. The review of project files confirmed the lack of sufficient information to establish the current status of each project. Generally, project files contained the initial S.M.A.R.T. Housing questionnaire and some emails and correspondence.

The S.M.A.R.T. Housing staff does maintain a spreadsheet of S.M.A.R.T. projects, which provides information from the S.M.A.R.T. Housing questionnaire. In addition, the spreadsheet contains fields for other information such as zoning application, zoning approval and the date which the project entered the review process. However, these fields did not contain enough information to determine the status of each project.

S.M.A.R.T. Housing staff is not able to assess the program goals to determine corrective actions that might be needed to prevent projects from becoming stagnant, or not meeting prescribed deadlines and dropping out of the program, which may result in affordable housing units' not being built.

S.M.A.R.T. Housing fees waivers are not budgeted or centrally monitored, making it difficult to determine the actual costs of the program.

The costs of City programs and activities should be monitored and reported as an input measure to enable the determination of cost-effectiveness and impact on City resources. The costs of S.M.A.R.T. Housing primarily consist of development-related fees waived by three City departments including the Watershed Protection Development Review (WPDR), Water and Wastewater (W/WW), and Public Works (PWD) departments. While these waived fees are attributable to housing projects authorized under the S.M.A.R.T. Housing program, they are not reported or accounted for in the NHCD budget. Nor are the waived fees accounted for in the budgets of the departments that waive them.

Further, NHCD has not developed a comprehensive method for tracking and assessing the total dollar amount of fees waived to date under the S.M.A.R.T. Housing resolution. Nor does NHCD monitor the total dollar amount of fees waived for each S.M.A.R.T. Housing project. In addition, S.M.A.R.T. Housing fee waivers and associated dollar amounts are not accurately captured by reports currently used by the WPDR and W/WW departments to track the waiver costs. Although the City's Permit Inspection Enforcement Review (PIER) system has the ability to "flag" waived fees, no method has been established to accurately capture all S.M.A.R.T. Housing waived fees for monitoring and reporting purposes.

Because S.M.A.R.T. Housing fee waivers are not factored into the balance sheets of NHCD, WPDR, W/WW, or PWD budgets, and because the fee waivers are issued by several departments at various stages in the development process, a formal process for tracking, monitoring, and reporting actual revenues foregone in the form of S.M.A.R.T. Housing fee waivers has not been developed. The lack of such a monitoring process makes it difficult to determine the actual costs of the program and or to hold NHCD accountable for the program's inputs and results.

Waived fees of approximately \$1,214,000 to date are not accounted for in any City budget program. Because all S.M.A.R.T. Housing-related fees waived are the responsibility of other City departments, NHCD does not incur any lost revenue; thus, costs attributable to the program in the form of fee waivers are not captured in the NHCD budget. The Watershed Protection and Development Review, Water and Wastewater, and Public Works departments incur the primary costs of S.M.A.R.T. Housing. According to data in the PIER system as of January 31, 2002, these three City departments have foregone a total of approximately \$1,214,000 in revenue due to S.M.A.R.T. Housing projects certified between April 20, 2000 and September 30, 2001. However, the fees waived are not accounted for in the budgets of these departments. The primary reason for this is that fees collected are considered revenue for the departments that levy them, and revenues are difficult to project, particularly for an activity so closely tied to the unpredictable housing market.

Fee waivers of approximately \$475,000, attributable to S.M.A.R.T. Housing, are not specifically accounted for in the WPDR budgetary balance sheets. However, comments contained in that department's budget explain that S.M.A.R.T. Housing fee waivers do negatively impact the revenues of the WPDR's permit and inspection division. The explanation includes an estimate that foregone permit and inspection revenue for the S.M.A.R.T. projects currently certified could amount to as much as \$650,000 by the time all the projects are through the permit and inspection process.

The Water and Wastewater (W/WW) Utility's Capital Recovery Fee is waived under the S.M.A.R.T. Housing resolution. Capital recovery fees collected by W/WW are revenues used to finance the department's Capital Improvement Project (CIP) fund. Auditor analysis indicates that S.M.A.R.T. Housing projects resulted in over \$600,000 of lost revenues; however, the department's budget does not contain information about S.M.A.R.T. Housing or other waivers that negatively impact the department's CIP budget.

The Public Works department also foregoes revenue by waiving subdivision construction inspection fees for S.M.A.R.T. Housing projects. To date, \$136,000 in fees has been waived for two large S.M.A.R.T. Housing projects; however, these dollars are not accounted for in the PWD budget.

NHCD does not have a comprehensive method for assessing the total fees waived under the S.M.A.R.T. Housing resolution nor do they track or monitor the fees waived for each project. S.M.A.R.T. Housing staff members authorize housing projects for fee waivers; however, fees waived per S.M.A.R.T. Housing project are not tracked in existing project files. The 20 S.M.A.R.T. Housing project files we reviewed contained no information about the dollar amount of fee waivers that have already been awarded or the dollar amount or types of fees the project was entitled to receive. Further, though the S.M.A.R.T.

Housing manager uses a spreadsheet to record information for each housing project, the fees waived for each project are not entered into this master list. Because fee waivers are not monitored or systematically tracked by program staff, no comprehensive method has been established to assess the total amount of fees waived per the S.M.A.R.T. Housing resolution. Thus, NHCD does not reconcile the amount of fees actually waived with the fees and amount authorized for waiver.

No reliable method has been developed to capture all fees waived under S.M.A.R.T. Housing. The WPDR and W/WW departments use the City's PIER system to chronicle data (including fee payment information) related to the land development process, building permits and inspections, and water and wastewater tap sales, installations, and connections. The PIER system allows WPDR and W/WW personnel to record S.M.A.R.T. Housing fee waivers issued by their departments, and both WPDR and W/WW have developed their own PIER reports to query S.M.A.R.T. Housing fees waived. The PWD division manager responsible for waiving construction inspection fees tracks S.M.A.R.T. Housing fee waivers, but this information is not reported to PWD management or S.M.A.R.T. Housing staff, nor is the information tracked in the City's PIER system. Currently, no consolidated report exists that captures all S.M.A.R.T. Housing fees waived by WPDR, W/WW, and PWD. Without a comprehensive fee waiver report or other reliable method for tracking S.M.A.R.T. Housing fee waivers, accurate reporting on the cost of the program is very difficult.

Further, a review of the reports that are utilized by WPDR and W/WW to track fee waivers indicates that not all fee waivers or associated dollars are accurately captured in them. The primary reasons for this are data entry errors and inconsistencies that render the fees undetectable by existing report queries. The accuracy of the reports used by both WPDR and W/WW depend upon specific data entry techniques used by fee collection personnel. Personnel must correctly indicate that the fees were "waived" instead of paid. Further personnel must correctly indicate that the waivers are associated with a S.M.A.R.T. Housing project in order to be captured by existing reports. We reviewed the data entered into PIER for every S.M.A.R.T. Housing project and found data entry inconsistencies that resulted in a significant number of fees that were waived but not captured by the PIER reports used by both WPDR and W/WW.

In addition, at the time the S.M.A.R.T. Housing resolution was passed, the PIER system was not programmed with the capability to track or flag fees, which were waived instead of paid. Thus, several initial S.M.A.R.T. Housing project fee waivers were not flagged at all in the PIER system, and are not detectable by existing reports.

S.M.A.R.T. Housing requirements lack consistency in the strength of their underlying criteria and in compliance enforcement.

As described earlier, S.M.A.R.T. Housing projects are expected to meet several specifications. However, a review of the stated requirements reveals that underlying criteria are of limited utility or quality, in some cases. For example, guidelines impose a “five year affordability period” that in theory and practice does nothing to ensure the retention of housing stock certified by the program. Furthermore, transit-orientation and affordability specifications may be unrealistic and may present technical barriers to meeting core affordable housing objectives. In addition to these issues of criteria quality, consistent enforcement of some clearly articulated criteria is lacking.

S.M.A.R.T. Housing guidelines impose a “five year affordability period” that in theory and practice does nothing to ensure the retention of housing stock. Controls such as restrictive covenants or deeds of trust are tools used by some funding agencies (state, municipal) or nonprofits to keep housing units in the stock of affordable housing. S.M.A.R.T. Housing’s “five year affordability period” is not such a control tool, but rather refers to the period of time in which, should an owner choose to sell their home, the original developer is required to repay any fees waived by the City on that unit. AHFC places no such affordability control requirements on any single-family homes produced through them. KB Homes, developing the two privately financed single-family projects with occupancy to date, reports that they do not use restrictive covenants, expecting the typical homeowner to stay in their newly acquired home for at least five years. Some Community Housing Development Organizations (CHDOs) participating in the S.M.A.R.T. Housing program themselves choose to control affordability.

Among S.M.A.R.T. Housing projects, multi-family developments financed with state or municipal bonds typically require 30- to 40-year control periods. However, a multi-family project financed with conventional funds would be held only to the terms of the “five year affordability period.”

Because the affordability of these units is not controlled, they can be resold on the open market to families at higher incomes. Such sales can result in the loss of housing stock for low- and moderate-income families.

Not all S.M.A.R.T. Housing projects meet the S.M.A.R.T. Housing criterion for affordability. At least two large S.M.A.R.T. Housing projects with occupants have rented and sold homes and apartments in breach of the stated requirement that renters and buyers should spend no more than 30 percent of gross household income on housing. This criterion, stated in the *S.M.A.R.T. Housing Guide*, is accepted both in affordable housing circles and the lending community as a general benchmark for affordability. HUD Section 8 rent

subsidy programs use this as a specific guideline for the tenant's contribution to rent. Below are three examples related to the affordability criterion that a family should spend no more than 30 percent of income on housing.

- Southwest Trails is a tax-credit project bound by affordability criteria, which allows flexibility on the cost/income ratio in order for property management to develop rent schedules and stay solvent. Cost-to-income ratios (excluding utilities) for five randomly selected units included 32 and 31 percent ratios, but all five average 28 percent. S.M.A.R.T. Housing staff claim that project units are not required to meet the 30 percent ratio, because Southwest Trails is known to already be subject to stringent requirements imposed by other public funding sources; however, such an exception to the rule is not substantiated in S.M.A.R.T. program material, including the *Guide*.
- Accredited Community Housing Development Organizations are not required by HUD or AHFC guidelines to meet ratios of equal to or less than 30 percent; thus AHFC does not collect data on these ratios. We did not verify whether affordability ratios on these units technically meet the S.M.A.R.T. housing requirement.
- The majority of units sold to income-eligible families at Springfield Section 1 have failed to meet S.M.A.R.T. Housing's 30 percent cost-to-income affordability criterion. Ratios for income eligible families have averaged 34 percent. In one case, a buyer at 47 percent MFI is reported to have spent 51 percent of their income on the monthly mortgage. S.M.A.R.T. Housing staff have reported that the developer will not get "credit" toward affordable-unit set asides, if the affordability criterion is not met. Staff has stated that they have not yet examined the developer's methods for buyer eligibility verification.

Depending on the buyer's circumstances crossing the 30 percent threshold may have little to no effect on affordability, and lenders may mitigate the risk of homebuyers spending more than 30 percent of income for housing costs through careful analysis of the buyer's income. The examples above may indicate a need for flexibility in this affordability criterion; however, recognized as a significant factor preventing access to affordable housing in Austin, squeezing available income is household credit issues.

Compliance with S.M.A.R.T. Housing's transit orientation specification is assured only in the event that a transit stop is previously sited within 1,000 feet of a new project. Program criteria are specific, requiring a bus stop 1,000 feet or less from a development; however, program staff reports that they do not apply the criteria or disqualify projects based on noncompliance. We tested nine projects and found that two multifamily projects and four infill unit projects met requirements while three subdivisions (single family) and two infill unit projects failed to meet requirements.

Compliance is not readily enforceable due to the fact that Capitol Metro's transportation planning process does not include the specified S.M.A.R.T. Housing objective and time frames. NHCD and developers have limited influence over this dimension of "S.M.A.R.T."

Projects are not evaluated for compliance with any specified mixed-income criterion. In other words, there is no elaboration on which incomes, at which “mix” is considered to support the mixed income value. S.M.A.R.T. Housing staff does track the distribution of incomes served by S.M.A.R.T. projects, as well as the geographical distribution of the projects. However, much S.M.A.R.T. housing—namely, multi-family complexes—does not by design support mixing incomes, serving strictly households in a low-income range. In fact, the mixed-income concept is significant only with regard to the new financing mechanism outlined in the resolution, whereby fee waivers are granted in accordance with the ratio of units serving income eligible families to those units serving households making more than 80 percent MFI. For example, mixed-income characteristics are demonstrated by the Springfield development, which serves a range of incomes from 60 percent MFI (low or moderate income) to 170 percent MFI (well above median income).

Proposed S.M.A.R.T. Housing projects are concentrated east of IH-35. In addition to “mixed-ness” within developments, geographical distribution is an indicator of segregation of incomes. Currently, proposed and/or completed reasonably priced S.M.A.R.T. Housing units will be distributed among thirteen zip codes throughout Austin with the 78741 zip code (Pleasant Valley/Riverside area) expected to have the largest concentration of 784 units. Zip codes 78744 (William Canon/East Ben White area) and 78723 (Ed Bluestein/MLK Blvd area) follow closely behind with 607 and 548 units respectively.

One S.M.A.R.T. Housing project, the Southwest Trails apartment complex, is located in Southwest Austin on Old Bee Caves road (78735 zip code) and is complete and occupied. Five other S.M.A.R.T. Housing projects are proposed west of Interstate Highway 35. The causes for inequitable distribution are generally accepted as relating to land availability, land prices, and environmental sensitivity and related costs. Continuing income segregation leaves people unable to live and work in their communities, with implications also for adverse transit impacts.

Green Building, accessibility, and building code requirements (relating to energy efficiency, accessibility, and safe characteristics of S.M.A.R.T. Housing) have specifications to use in monitoring compliance. Monitoring of green building and accessibility requirements falls squarely on the S.M.A.R.T. Housing staff at this time, because S.M.A.R.T. Housing policies impose these requirements. Observation suggests that communication with Green Building staff will need to be improved to ensure compliance. We did not test compliance of completed units for compliance with specifications. However, staff stated that Southwest Trails apartment complex is not fully compliant as S.M.A.R.T. Housing because of accessibility issues.

Finally, criteria for eligibility timelines are not clear as presented in S.M.A.R.T. Housing guidelines, nor are the terms of access to expedited review benefits. Program guidelines state that developers become ineligible for fee waivers after 18 or 24 months from “execution of the contract,” depending on project type. If this is interpreted to mean the eligibility period begins at certification, then our analysis shows a number of projects at risk of losing eligibility for these waivers. Staff reports that the intended meaning is that projects must be complete and occupied within 18 or 24 months from the “cashing in” of capital recovery fee waivers. Lack of clarity on this aspect of program design resulted in at least one developer unnecessarily believing that eligibility was about to expire.

In order to protect the City’s investment in S.M.A.R.T. Housing, a formalized written contract, program elements, and management controls must be in place.

The characterization of S.M.A.R.T. Housing as a policy and not a program has resulted in a lack of program planning. Binding contractual agreements between the City and developers of S.M.A.R.T. Housing do not currently exist. Such a contract would help protect the City’s investment in S.M.A.R.T. Housing projects. Even though the signed application states that the developer will provide a surety bond or execute a note in the amount of fees waived, this has not occurred for all current projects. Further, the S.M.A.R.T. Housing staff has developed only limited information to assist developers in meeting the necessary criteria. Monitoring of developer’s compliance with relevant parts of the S.M.A.R.T. Housing initiative has not been well documented. Developing management controls will facilitate performance reporting and outcomes as well as provide consistency and uniformity in the program.

No contract is utilized to formalize agreements between developers and the City for the production of S.M.A.R.T. Housing units. Good business practices suggest that agreements between the City and developers, who receive monetary incentives in return for the production of housing units, should be formalized by the initiation and execution of a written contract. However, there is no such contract currently used by NHCD to help protect the City’s investment in S.M.A.R.T. Housing projects. At the present time, NHCD is working with the City’s Law Department to develop a formal contract to be used for S.M.A.R.T. Housing projects; however, the contract has not been implemented to date. The absence of a contract to effectively hold developers accountable for producing the agreed upon number and quality of S.M.A.R.T. Housing units places the City at risk of forfeiting the fee waiver subsidy as well as the value of other program incentives for projects certified prior to the implementation of a legally binding contract.

The S.M.A.R.T. Housing application has been referred to as a “contract;” however, the document does not contain basic contract elements. In order to become certified for participation in the City’s S.M.A.R.T. Housing program and eligible for the menu of available fee waivers, developers are required to submit a signed application, which is entitled: *Application for Exemption from Payment of Capital Recovery Fee, Development Review and Inspection Fees, and Certain Subdivision Construction Inspection Fees* (the Application). Despite being referred to as a contract, the Application lacks essential components which clearly set forth the terms and conditions which one would normally expect to find in a written contractual agreement. Specifically, the Application does not include the amount of the subsidy offered by the City in exchange for the development of a specified number of reasonably priced S.M.A.R.T. Housing units. Additionally, despite common City practice to do so, NHCD did not involve the City’s Law Department in drafting the application, nor did the Law Department review or approve the S.M.A.R.T. Housing application as a contract that the NHCD could or should execute. A senior attorney in the Law Department noted that the Application lacked key elements that she would expect to see in a contract, including the specification of monitoring requirements and expectations as well as penalties for noncompliance.

In addition, the Application actually refers to a contract to be executed; however, we found no evidence of such a contract. The Application states: “The Applicant, if awarded the [fee] exemptions, hereby agrees to execute a contract with NHCD for the receipt of the exemptions.” We reviewed 20 S.M.A.R.T. Housing project files all of which contained the Application; two applications were not signed and two were incomplete. No other contract document was found in any of the files reviewed.

Surety bonds and property deed restrictions are not used to ensure recovery of fees waived in the event developers fail to produce agreed upon units or the units do not remain affordable. The Application states that surety notes or bonds and restrictive covenants will be required by the City before fee exemptions are awarded in order to recoup fees waived if the agreed upon housing units are not produced or do not remain affordable. The Application states:

Before issuance of a Certificate of Exemption, the Applicant will execute a note or surety bond, payable to NHCD in the amount of the number of exemptions granted multiplied by the fees required for the particular project and a Deed of Trust and/or restrictive covenant as specified by the Ordinance sufficient to assure that the designated reasonably priced unit receiving the exemption will be occupied by an eligible family with income at 80 percent or below the Median Family Income and requiring an affordability period of at least five years...

However, we found that these requirements are not actually imposed. In fact, only one of the 47 projects certified within the scope of the audit was required

to post a surety bond for the fees waived. Further, no project was required by S.M.A.R.T. Housing standards to have a restrictive covenant or other land deed restriction placed on the affected property.

Even if the City imposed such bonds or deed restrictions and the monetary value of the development fees waived was recouped, the amount recovered would be insufficient to cover the total actual damages incurred by the City in most cases. This is particularly true in the case of multi-family complexes and single-family subdivisions.

Despite the fact that fee waivers are offered as incentive to build reasonably priced housing units, the fee waiver subsidies are awarded for each unit in a housing development as long as the project provides at least 40 percent reasonably priced units whether all units are reasonably priced or not. Thus, the subsidy per reasonably priced unit is greater than the fees waived per unit during development.

EXAMPLE

Plans for a certified S.M.A.R.T. Housing subdivision include 100 single-family homes, 40 of which are slated to serve low and moderate-income families and meet reasonably priced criteria.

Total fees waived on 100 percent of subdivision homes		\$211,800
Permit and inspection fee average per home	\$518 x 100	\$51,800
W/WW capital recovery fee average per home	\$1,100 x100	\$110,000
Construction inspection fee average per lot	\$500 x100	\$50,000
Total fees waived per unit of S.M.A.R.T. housing		\$2,118
Total fees waived/100		
Total fees waived per reasonably priced unit		\$5,295
Total fees waived/40		

Limited information is available to program participants. The *S.M.A.R.T. Housing Guide* is available to program participants; however, only one of the seven chapters specifically addresses S.M.A.R.T. Housing. Other chapters in the *Guide* address such things as residential repair and remodeling and demolition. Although the *Guide* is useful, the information about S.M.A.R.T. Housing is basic and provides a general overview of the program. The *Guide* does not provide the detail necessary to ensure the following:

- S.M.A.R.T. Housing participants are adequately informed about roles/responsibilities of both themselves and the City.
- Affordable units are built.
- The City's interest is protected.

Besides the *Guide*, there are documents that outline goals, minimum requirement, evaluation criteria, and the S.M.A.R.T. process:

- S.M.A.R.T. Housing Fee Exemption Program handout
- Austin Housing Finance Corporation Application for Exemption From Payment of Capital Recovery Fee, Development Review and Inspection Fees and Certain Subdivision Construction Inspection handout.

Monitoring plans for areas of exclusive oversight responsibility have not been developed by S.M.A.R.T. Housing staff. The S.M.A.R.T. Housing policy sets up compliance criteria by definition. Exclusive oversight for the following compliance areas is the responsibility of the S.M.A.R.T. Housing staff.

- Reasonably priced:
 1. Income eligibility (if not a publicly funded program with “at or below 80%MFI” income eligibility requirements)
 2. Cost-to-income affordability
 3. Five -year affordability period
- Accessibility
- Transit oriented
- Energy efficiency

Because the program is in its infancy, staff has not developed written guidelines for monitoring compliance nor ensured that all projects are compliant. S.M.A.R.T. Housing staff relies on other agencies to cover compliance risk in the income eligibility and cost-to-income affordability areas. In addition to the S.M.A.R.T. Housing section, other City departments and divisions oversee project attributes relevant to S.M.A.R.T. housing. For example, WPDR oversees building code compliance (Safe), and AHFC collects income eligibility and affordability compliance data for any units participating in an AHFC financing program. Non-City agencies also track affordability criteria according to their standards when funding is drawn from their agency for a project.

Plans and procedures do not exist for monitoring S.M.A.R.T. Housing’s five-year affordability requirement, or ensuring that projects obtain conditional approvals and final inspection for Green Building. When a unit certified by S.M.A.R.T. Housing changes owners within five years of occupancy (none have done so to-date), the resolution requires that the developer, not the owner, must return fees that were waived on that unit. Detection by S.M.A.R.T. Housing staff is simplified in cases where buyers have used the AHFC down payment assistance (DPA) product, which is a second lien on the property. But for those buyers who do not get DPA, reference to other records such as utility billings or county appraiser records would be required. To ensure that the green building component of S.M.A.R.T. Housing is met, NHCD staff must coordinate with Austin Energy.TM

The relevant accessibility monitoring reports for multifamily complexes were available as required per the stage of project development. The City has hired a consultant to assess whether S.M.A.R.T. Housing multifamily projects meet the accessibility requirement. Once accessibility is established, NHCD staff does not conduct any follow-up monitoring. At present, single-family accessibility monitoring is not being done.

Transit orientation is considered a value, but is not effectively implemented as a requirement. In order to meet this criterion of S.M.A.R.T. Housing, the developer must contact Capital Metro to determine this service availability. If none exists, the developer is expected to negotiate with Capital Metro to include that route in its future plans. However, NHCD staff does not monitor compliance with this requirement.

There was no evidence of standard forms/checklists for waivers granted or a S.M.A.R.T. Housing process flowchart. During our project file review, we were not able to determine the following information pertaining to fee waivers, because no standard documentation was present.

- A list of standard fees eligible to be waived for any project.
- The amount of the fees eligible for waiver (actual or estimated).
- The point in the process that fees are actually waived.
- The exceptions used in determining which fees to waive.
- How the City recovers fees if performance is not met.
- When the City recovers fees.
- The amount of the fees to recover.

However, each project file did contain a “Certificate of Compliance” (COC) memo that designates the certification date and fees to be waived for each project. (All projects are not eligible for all fee waivers.) Sometimes the COC also describes the next step(s) in the process, but this appeared on a case-by-case basis. The logic used by staff in determining which fees were to be waived and in what instances was not documented in the files. A checklist of documents expected to be present in files would help ensure consistency and uniformity.

Due to the complexity of the development and review process, a S.M.A.R.T. Housing flowchart or some other tool illustrating the S.M.A.R.T. Housing process for developers and/or City staff would be a useful tool. The City’s Development Web page contains a development and review flowchart; however, there was none specifically tailored for the S.M.A.R.T. Housing process. See Appendix E for a S.M.A.R.T. Housing process flowchart created by the auditors with input and comments from staff.

Guidelines for expedited review have not been clearly stated so developers understand all of the steps for participation in S.M.A.R.T. Housing. Staff

reports that three developers were released from participation in the pilot program due to the developer's slow response times, although we could not find any indication that delays would result in disqualification. When guidelines are not used, customers may be subject to arbitrary action.

Recommendations:

02. To ensure that the City can recover damages and waived fees, in the event of non-performance by S.M.A.R.T. Housing-certified projects, the Community Development Officer should work with the City's Law Department to create and implement a binding contract, to be executed as a condition of receiving waivers, advocacy, and additional S.M.A.R.T. Housing benefits. Elements of the contract should include, but not be limited to,

- expected performance and means to measure requirements,
- monitoring requirements, with timelines, and sanctions for non-compliance,
- fee types authorized for waiver per project,
- actual dollars waived per project, and
- audit provisions.

Suggested strategies:

To ensure that project-specific requirements and expectations are included in the S.M.A.R.T. Housing contract, we suggest developing and implementing

- a multi-phase contract to accommodate estimated and actual waived dollars and
- a standard form, valid for use as a contract addendum, presenting a comprehensive list of fees eligible for waiver and indicating those authorized for waiver.

MANAGEMENT RESPONSE: Concur/Underway.

NHCD concurs with the recommendation to work with the Law Department to develop additional legal controls to ensure damages and fees can be recovered in the event of non-compliance. Specific elements will be determined by the Law Department.

Underway: NHCD has developed with the Law Department restrictive covenants, a revised application, and acceptable surety bond forms to accomplish these goals.

03. To account for the City's investments via fee waivers, S.M.A.R.T. Housing staff should

- set up an agreement with the departments that waive fees to report actual fee waiver amounts to S.M.A.R.T. Housing staff,
- reconcile authorized waivers to actual waivers,
- measure costs associated with fees waived, and
- report total fees waived in the S.M.A.R.T. Housing report to the City Manager's Office.

MANAGEMENT RESPONSE: Concur/Underway.

NHCD concurs with the recommendation to account for fee waivers.

Underway: NHCD has developed with the Budget Office draft recommendations for tracking that can be included in the 2002-2003 NHCD Budget and the respective budgets of the other affected departments. NHCD will set up an inter-departmental agreement to receive the fee waiver data for consolidation; confirm the value of actual fee waivers and accurately reflect single family and multi family per unit costs.

04. To address the issue of affordable housing stock retention, the Community Development Officer and Neighborhood Housing and Community Development staff should review the current use of affordability controls to protect the City's interest, such as restrictive covenants and first right of refusal on S.M.A.R.T. Housing project properties, and make recommendations to Council to the effect of strengthening affordability control requirements.

MANAGEMENT RESPONSE: Concur/Underway.

NHCD concurs with the recommendation to strengthen affordability controls

Underway: NHCD has developed with the Law Department restrictive covenants, a revised application, and acceptable surety bond forms to accomplish these goals. NHCD will provide the City Council amendments to the S.M.A.R.T. Housing Resolution that clarify and enhance affordability controls. We plan for these to be adopted prior to next fiscal year.

05. In order to ensure performance accountability, the Community Development Officer should identify and implement a family of performance measures that accurately reflect what S.M.A.R.T. Housing staff are expected to achieve. These measures should include, but not be limited to, the following measures:
- Foregone revenues (City investment) per reasonably priced S.M.A.R.T. Housing unit by housing type and income group served (efficiency measure, useful for cost-benefit analysis). Requires collection of
 - o waived fee costs (input) and
 - o number of S.M.A.R.T. units serving incomes 80 percent and below (output).
 - Affordability impact statements
 - o number issued (output)
 - o estimated cost avoided (outcome*).
 - Number of reasonably priced S.M.A.R.T. Housing units certified and number completed by housing type and income group served (outputs).

MANAGEMENT RESPONSE: Concur/Underway

NHCD concurs with the recommendation to enhance existing performance measures.

Underway: NHCD and the Budget Office have drafted additional S.M.A.R.T. Housing performance measures that are currently under review for implementation in 2002-2003.

06. In addition, the Community Development Officer should adopt and monitor a measure for the Housing Development division reflecting the stock of affordable housing available to each income category in Austin.

Suggested strategies:

We also suggest the following measures for S.M.A.R.T. Housing.

- Dollars leveraged per dollar waived (economy).
- Compliance rates (outcome*).
- Requires collection of
 - Number of compliance reviews (input) and
 - Number of cases of non-compliance (output).

MANAGEMENT RESPONSE: Does Not Concur

NHCD does not concur with the recommendation or the suggested strategies.

Ongoing: NHCD does not have the ability to identify all reasonable priced housing in the City of Austin or the ability to identify the income group that housing serves. Unless NHCD has an interest in the property, this information is not readily available. NHCD housing staff can and will continue to track the number of S.M.A.R.T. Housing units proposed in each of the income categories and will continue to rely on the tracking of available housing units provided by others.

07. To further ensure performance accountability, the Community Development Officer should promote S.M.A.R.T. Housing from a service to a budgeted activity.

MANAGEMENT RESPONSE: Concur/Underway

NHCD concurs with the recommendation to promote S.M.A.R.T. Housing from a service to a budgeted activity.

Underway: NHCD and the Budget Office have developed recommendations to enhance the visibility of S.M.A.R.T. Housing in the 2002-2003 budget.

* Outcomes are also referred to as results.

08. The City Manager should reemphasize that other City departments involved in housing development should plan and cooperate with the S.M.A.R.T. Housing staff to ensure that affordable housing issues are addressed in new subdivisions, extensions of existing services, analysis of excess service capacity, and annexations.

MANAGEMENT RESPONSE: Concur/Planned and Underway

NHCD concurs with the recommendation to reemphasize that S.M.A.R.T. Housing is a City priority.

Planned and underway: NHCD will continue to work with the City Manager's Office and other affected City departments to ensure that issues of housing affordability are addressed in the City's short and long-range planning process.

09. To ensure service administration consistency and continuity of the S.M.A.R.T. Housing service, the Community Development Officer should direct the S.M.A.R.T. Housing staff to develop and document written internal policies and procedures for S.M.A.R.T. Housing.

Suggested Strategy:

The policies and procedures should address in the following items.

- a. Clear assignment of monitoring responsibilities and compliance sanctions that covers the full range of possible scenarios, per project and compliance area.
- b. Cost tracking roles and responsibilities.
- c. Communication and reporting plans.
- d. Process charts for quick comprehension.

MANAGEMENT RESPONSE: Concur/Underway.

NHCD concurs with the recommendation to develop written policies and procedures for S.M.A.R.T. Housing.

Underway: NHCD staff is revising the existing S.M.A.R.T. Housing Guide to include information on internal procedures. This will be completed following City Council action on revisions to the S.M.A.R.T. Housing Resolution.

10. To achieve policy objectives and avoid project disqualification on technicalities, S.M.A.R.T. Housing staff should
- a. revise affordability and transit-oriented criteria to be more flexible and
 - b. develop and implement a matrix to evaluate a project's eligibility for program participation according to its contribution to S.M.A.R.T. Housing objectives.

MANAGEMENT RESPONSE: Concur/Planned

NHCD concurs with the recommendation to provide flexibility in the reasonably priced and transit oriented criteria.

Planned: NHCD will work with the Law Department on revisions to the S.M.A.R.T. Housing Resolution definitions for the *reasonably priced* and *transit-oriented* criteria.

11. To assist developers in making an informed decision about participation in the service, S.M.A.R.T. Housing staff and the NHCD Public Information Officer should revise S.M.A.R.T. Housing guidelines (*the Guide*) to include clear descriptions of mutual expectations with regard to processes and products, maximum benefits of fee types eligible for waiver, timeliness expectations, and other rules and requirements.
-

MANAGEMENT RESPONSE: Concur/nderway

NHCD concurs with the recommendation to revise the S.M.A.R.T. Housing Guide.

Underway: NHCD staff is revising the existing S.M.A.R.T. Housing Guide to include information on internal procedures. This revision will be completed following City Council action on revisions to the S.M.A.R.T. Housing Resolution.

12. To get maximum value from periodic reports, S.M.A.R.T. Housing staff should confer with management, Council and citizens on their information needs and customize reports accordingly; reports should include measures and tables that clearly reflect service activities.
-

MANAGEMENT RESPONSE: Concur/Underway

NHCD concurs with the recommendation to confer with management, Council and citizens on their information needs and to provide reports of available information.

Underway: NHCD staff will continue to provide available information from S.M.A.R.T. Housing tracking reports.

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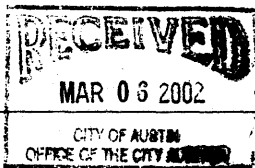
APPENDIX A
MANAGEMENT RESPONSE

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City of Austin

P.O. Box 1088, Austin, TX 78767
www.cityofaustin.org/housing



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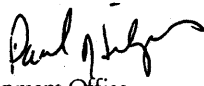
Neighborhood Housing and Community Development Office

Paul Hilgers, Community Development Officer

(512) 974-3108, Fax: (512) 974-3112, paulhilgers@a.austin.tx.us

Date: May 2, 2002

To: Page Graves, Assistant City Auditor
Office of the City Auditor

From: Paul Hilgers, Community Development Officer 
Neighborhood Housing and Community Development Office

Subject: Official Response to the S.M.A.R.T. Housing Audit Report

The purpose of this memo is to summarize the results of the work conducted by the staff of the City Auditor's Office and the Neighborhood Housing and Community Development Department over the past several weeks. We have been working to resolve the outstanding disagreements outlined in the February 25, 2002 Memorandum to the City Council and NHCD's presentation to the Audit and Finance Committee. There are now substantive and substantial agreements on the following issues:

1. We submitted this report and appeared before the Audit and Finance Committee prematurely. Staff of both Departments agree that the Audit Report was not complete, in that the disagreements still existed and led to miscommunication and misunderstanding that has been resolved with the additional time.
2. The Scope of Work of this Audit was limited in focus and did not consider many of the issues raised in the draft response of NHCD. This fact negates many of the issues which NHCD had expressed concerns. Some of those issues are more appropriately addressed in future audits; i.e. Impact of Affordability Impact Statements.
3. City Auditor has agreed to the following modifications to the original report:
 - There will be footnotes clarifying statements concerning the definition of "public-private" partnership and the role of the City Council in approving certain S.M.A.R.T. Housing fee waivers;
 - There will be a recognition that the current tracking systems needs to be expanded to include additional performance measures;
 - There will be a brief discussion of what is not included in the scope of the current audit;
 - A clarifying statement that S.M.A.R.T. Housing has had a positive impact on increasing affordable housing stock in Austin.

Appendix A

Memorandum to Page Graves
Page 2
May 2, 2002

I sincerely appreciate the professionalism of you and your staff in working through the issues necessary to finalize this report. There is no question that the S.M.A.R.T. Housing Policy and Initiative will be more successful in the future as a result of the work of your staff.

I am enclosing a revised response to the audit recommendations along with a copy of the Action Plan. I understand that the Action Plan for implementing the recommendations will be scheduled for City Council review in May 2002.

Please let me know if you need additional information.

PHsc
Sc/Memo-Graves-Final Audit Response-041502
Enclosures
Cc: Michael C. McDonald
Diana Arredondo
Gina Copic
Stuart Hersh

S.M.A.R.T. Housing Audit Action Plan
Neighborhood Housing and Community Development
April 2, 2002

01. To continue attracting developer participation in S.M.A.R.T. Housing, the Community Development Officer should collaborate with the directors and staff of Watershed Protection and Development Review, Water Wastewater, and Public Works to develop and implement cost-reduction strategies other than fee waivers and expedited review for affordable housing development in Austin, and remove barriers to development of low-moderate housing in the Austin market.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to develop and implement new incentives for and remove barriers to the development of reasonably priced housing.

Underway: NHCD will collaborate with the various departments on policy options and potential impacts. Revisions to the S.M.A.R.T. Housing Resolution and the Land Development Code will be scheduled for City Council action following stakeholder discussions. We anticipate this occurring prior to next fiscal year.

02. To ensure that the City can recover damages and waived fees, in the event of non-performance by S.M.A.R.T. Housing-certified projects, the Community Development Officer should work with the City's Law Department to create and implement a binding contract, to be executed as a condition of receiving waivers, advocacy, and additional S.M.A.R.T. Housing benefits. Elements of the contract should include, but not be limited to,

- expected performance and means to measure requirements,
- monitoring requirements, with timelines, and sanctions for non-compliance,
- fee types authorized for waiver per project,
- actual dollars waived per project, and
- audit provisions.

Suggested strategies:

To ensure that project-specific requirements and expectations are included in the S.M.A.R.T. Housing contract, we suggest developing and implementing

- a multi-phase contract to accommodate estimated and actual waived dollars and
- a standard form, valid for use as a contract addendum, presenting a comprehensive list of fees eligible for waiver and indicating those authorized for waiver.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to work with the Law Department to develop additional legal controls to ensure damages and fees can be recovered in the event of non-compliance. Specific elements will be determined by the Law Department.

Underway: NHCD has developed with the Law Department restrictive covenants, a revised application, and acceptable surety bond forms to accomplish these goals.

03. To account for the City's investments via fee waivers, S.M.A.R.T. Housing staff should
- set up an agreement with the departments that waive fees to report actual fee waiver amounts to S.M.A.R.T. Housing staff,
 - reconcile authorized waivers to actual waivers,
 - measure costs associated with fees waived, and
 - report total fees waived in the S.M.A.R.T. Housing report to the City Manager's Office.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to account for fee waivers.

Underway: NHCD has developed with the Budget Office draft recommendations for tracking that can be included in the 2002-2003 NHCD Budget and the respective budgets of the other affected departments. NHCD will set up an inter-departmental agreement to receive the fee waiver data for consolidation; confirm the value of actual fee waivers and accurately reflect single family and multi family per unit costs.

04. To address the issue of affordable housing stock retention, the Community Development Officer and Neighborhood Housing and Community Development staff should review the current use of affordability controls to protect the City's interest, such as restrictive covenants and first right of refusal on S.M.A.R.T. Housing project properties, and make recommendations to Council to the effect of strengthening affordability control requirements.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to strengthen affordability controls.

Underway: NHCD has developed with the Law Department restrictive covenants, a revised application, and acceptable surety bond forms to accomplish these goals. NHCD will provide the City Council, amendments to the S.M.A.R.T. Housing Resolution that clarify and enhance affordability controls. We plan for these to be adopted prior to our next fiscal year.

05. In order to ensure performance accountability, the Community Development Officer should identify and implement a family of performance measures that accurately reflect what S.M.A.R.T. Housing staff are expected to achieve. These measures should include, but not be limited to, the following measures:
- Foregone revenues (City investment) per reasonably priced S.M.A.R.T. Housing unit by housing type and income group served (efficiency measure, useful for cost-benefit analysis). Requires collection of
 - waived fee costs (input) and
 - number of S.M.A.R.T. units serving incomes 80 percent and below (output).
 - Affordability impact statements
 - number issued (output)
 - estimated cost avoided (outcome).
 - Number of reasonably priced S.M.A.R.T. Housing units certified and number completed by housing type and income group served (outputs).

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to enhance existing performance measures.

Underway: NHCD and the Budget Office have drafted additional S.M.A.R.T. Housing performance measures that are currently under review for implementation in 2002-2003.

06. In addition, the Community Development Officer should adopt and monitor a measure for the Housing Development division reflecting the stock of affordable housing available to each income category in Austin.

Suggested strategies:

We also suggest the following measures for S.M.A.R.T. Housing.

- Dollars leveraged per dollar waived (economy).
- Compliance rates (outcome*).
- Requires collection of
 - Number of compliance reviews (input) and
 - Number of cases of non-compliance (output).

MANAGEMENT RESPONSE: NHCD does not concur with the recommendation to monitor the affordable housing stock available in Austin by income category.

Ongoing: NHCD does not have the ability to identify all reasonable priced housing in the City of Austin or the ability to identify the income group that housing serves. Unless NHCD has an interest in the property, this information is not readily available. NHCD housing staff can and will continue to track the number of S.M.A.R.T. Housing units proposed in each of the income categories and will continue to rely on the tracking of available housing units provided by others.

07. To further ensure performance accountability, the Community Development Officer should promote S.M.A.R.T. Housing from a service to a budgeted activity.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to promote S.M.A.R.T. Housing from a service to a budgeted activity.

Underway: NHCD and the Budget Office have developed recommendations to enhance the visibility of S.M.A.R.T. Housing in the 2002-2003 budget.

08. The City Manager should reemphasize that other City departments involved in housing development should plan and cooperate with the S.M.A.R.T. Housing staff to ensure that affordable housing issues are addressed in new subdivisions, extensions of existing services, analysis of excess service capacity, and annexations.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to reemphasize that S.M.A.R.T. Housing is a City priority.

Planned and underway: NHCD will continue to work with the City Manager's Office and other affected City departments to ensure that issues of housing affordability are addressed in the City's short and long-range planning process.

09. To ensure service administration consistency and continuity of the S.M.A.R.T. Housing service, the Community Development Officer should direct the S.M.A.R.T. Housing staff to develop and document written internal policies and procedures for S.M.A.R.T. Housing.

Suggested Strategy:

The policies and procedures should address in the following items.

- a. Clear assignment of monitoring responsibilities and compliance sanctions that covers the full range of possible scenarios, per project and compliance area.
- b. Cost tracking roles and responsibilities.
- c. Communication and reporting plans.
- d. Process charts for quick comprehension.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to develop written policies and procedures for S.M.A.R.T. Housing.

Underway: NHCD staff is revising the existing S.M.A.R.T. Housing Guide to include information on internal procedures. This will be completed following City Council action on revisions to the S.M.A.R.T. Housing Resolution.

10. To achieve policy objectives and avoid project disqualification on technicalities, S.M.A.R.T. Housing staff should
 - a. revise affordability and transit-oriented criteria to be more flexible and
 - b. develop and implement a matrix to evaluate a project's eligibility for program participation according to its contribution to S.M.A.R.T. Housing objectives.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to provide flexibility in the reasonably priced and transit oriented criteria.

Planned: NHCD will work with the Law Department on revisions to the S.M.A.R.T. Housing Resolution definitions for the *reasonably priced* and *transit-oriented* criteria.

11. To assist developers in making an informed decision about participation in the service, S.M.A.R.T. Housing staff and the NHCD Public Information Officer should revise S.M.A.R.T. Housing guidelines (*the Guide*) to include clear descriptions of mutual expectations with regard to processes and products, maximum benefits of fee types eligible for waiver, timeliness expectations, and other rules and requirements.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to revise the S.M.A.R.T. Housing Guide.

Underway: NHCD staff is revising the existing S.M.A.R.T. Housing Guide to include information on internal procedures. This revision will be completed following City Council action on revisions to the S.M.A.R.T. Housing Resolution.

12. To get maximum value from periodic reports, S.M.A.R.T. Housing staff should confer with management, Council and citizens on their information needs and customize reports accordingly; reports should include measures and tables that clearly reflect service activities.

MANAGEMENT RESPONSE: NHCD concurs with the recommendation to confer with management, Council and citizens on their information needs and to provide reports of available information.

Underway: NHCD staff will continue to provide available information from S.M.A.R.T. Housing tracking reports.

APPENDIX B
LIST OF FEE TYPES

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S.M.A.R.T. HOUSING FEES ELIGIBLE FOR WAIVER

CITY DEPARTMENT		FEE TYPES
Water and Wastewater		Capital Recovery (impact) fee
Public Works		Construction Inspection fee
Watershed Protection and Development Review		Development Assessment fee
		Traffic Impact Analysis fee
		Traffic Impact Analysis Revision fee
	Zoning fees	Regular Zoning fee
		Interim to Permanent Zoning fee
		Miscellaneous Zoning fee
		Zoning Verification Letter fee
		Board of Adjustment fee
		Managed Growth Agreement fee
		Planned Development Area fee
	Subdivision fees	Preliminary Subdivision fee
		Final Subdivision fee
		Final without Preliminary Subdivision fee
		Miscellaneous Subdivision fee
	Site Plan fees	Consolidated Site Plan fee
		Miscellaneous Site Plan fee
		Site Plan Revision fee
		Site Plan – Construction Element fee
	Building Plan Review, Permit, and Inspection fees	Building Plan Review fee
		Building Permit fee
		Electric Permit fee
		Mechanical Permit fee
		Plumbing Permit fee
		Concrete Permit fee
		Demolition Permit fee
		Electric Service Inspection fee
		Move House onto Lot fee
		Move House onto City Right-of-Way fee

SOURCE: S.M.A.R.T. Housing Resolution #000420-76, Exhibit A.

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APPENDIX C
APPLICATION REVIEW AVERAGE CYCLE TIMES

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REVIEW OF SUBDIVISION APPLICATIONS

Average cycle times for all subdivision applications improved, but S.M.A.R.T Housing goals were not consistently met. For the time period October 2000 through November 2001, the average cycle time for subdivision application review fluctuated up and down. In October and November of 2001, the review time remained steady at 139 days. Throughout this time period, the average cycle times for review of subdivision applications ranged from a high of 195 days to a low of 124 days. Therefore, no conclusions on the efficiency of the review times can be made based on caseload.

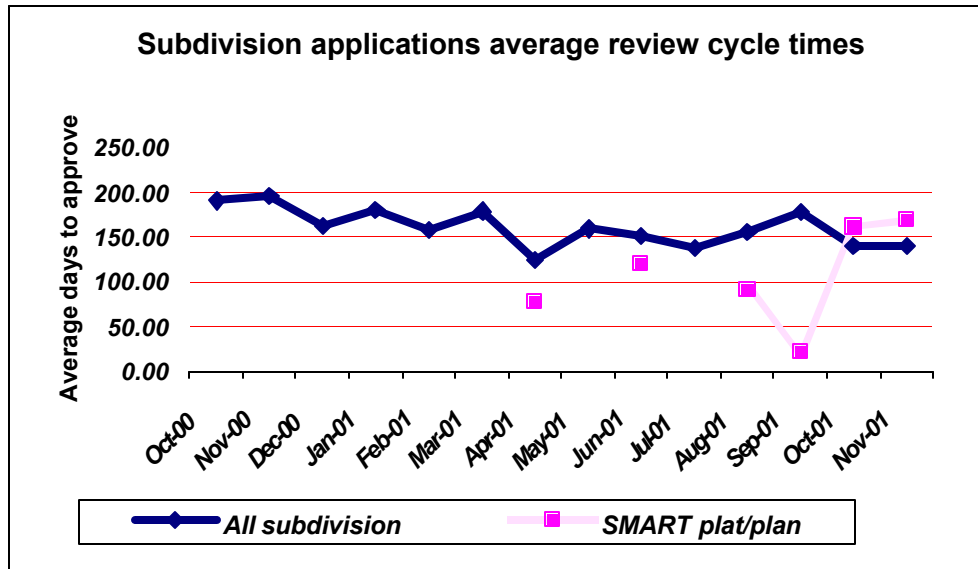
For the same period, the cycle time for S.M.A.R.T. Housing subdivision application review fluctuated. There was at least one S.M.A.R.T. Housing case for each of the six months noted in the following chart. The total review days for these S.M.A.R.T. Housing projects ranged from 77 to 168 days.

There was one S.M.A.R.T. Housing project each in October 2001 and November 2001 in which S.M.A.R.T. Housing subdivision application reviews took longer than other subdivision reviews. In October, S.M.A.R.T. Housing project review took 161 days and other projects took 139 days (45 cases); in November, the review of the applications took 168 days for S.M.A.R.T. Housing and 139 days for others. The two S.M.A.R.T. Housing subdivision cases were:

- Scenic Point Section 2?Final Plat Subdivision and
- Heritage Village?Preliminary Subdivision Plan.

Heritage Village had site-specific issues related to the contour of the land. The developer had to revise the site plan several times to meet the ordinance requirements related to slopes. As of January 2002, the developer still needed to get final plat and site plan approvals. Issues related to runoff to the lower lots have also emerged and remained unresolved.

For all charts in this appendix, OCA analyzed data received from Infrastructure Systems Support.

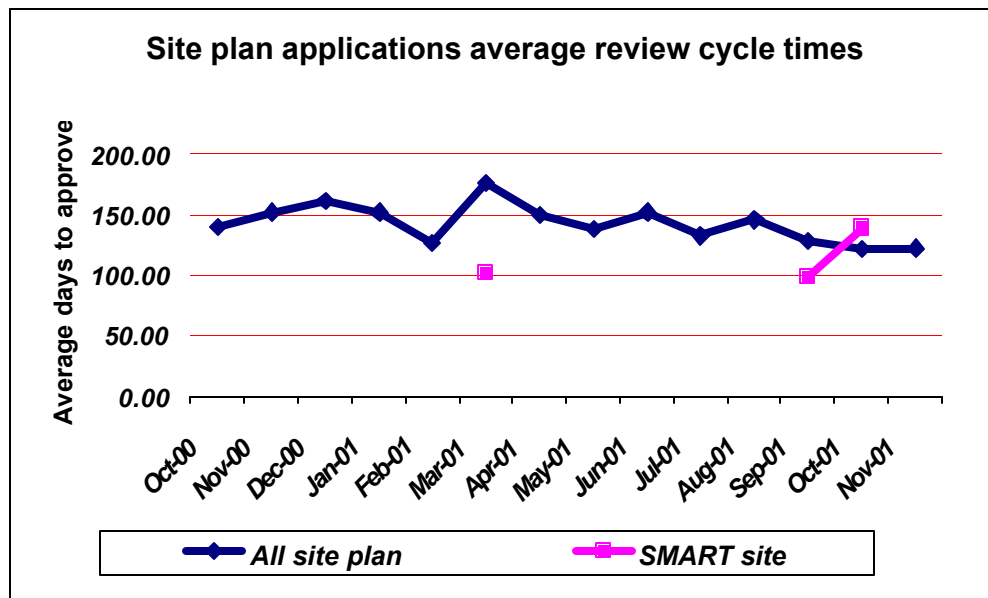


MONTH	AVERAGE REVIEW CYCLE TIME FOR ALL SUBDIVISIONS	AVERAGE REVIEWCYCLE TIME FOR S.M.A.R.T. HOUSING SUBDIVISIONS
Oct-00	190.00	
Nov-00	194.85	
Dec-00	161.21	
Jan-01	179.69	
Feb-01	157.06	
Mar-01	178.33	
Apr-01	124.17	77.00
May-01	158.45	
Jun-01	150.00	119.00
Jul-01	137.32	
Aug-01	155.69	91.00
Sept-01	177.08	21.00
Oct-01	138.93	161.00
Nov-01	139.00	168.00

REVIEW OF SITE PLAN APPLICATIONS

Average site plan review times fluctuated; S.M.A.R.T. Housing goals were not met. For the time period from October 2000 through November 2001, the average cycle time for site plan review fluctuated. The total average days ranged from 126 to 176 days. During September 2001 through November 2001, all reviews averaged approximately 120 days. The number of cases during this time period varied between 35 and 40 per month. Three months (November 2000, September 2001, and May 2001) had 30 cases or less. In September, October, and November 2001, average site plan review times have remained relatively constant at 128, 121, and 122 days, respectively, which are among the lowest monthly averages for this time period.

During this same time frame, there were only three months in which S.M.A.R.T. Housing site plans were submitted and reviewed. The total average review time ranged from 99 to 138 days. There was one S.M.A.R.T. Housing site plan application review in October 2001, the Franklin apartments, which took longer than all other application reviews for that month. The S.M.A.R.T. Housing application took 138 days and 46 other cases took an average of 121 days.

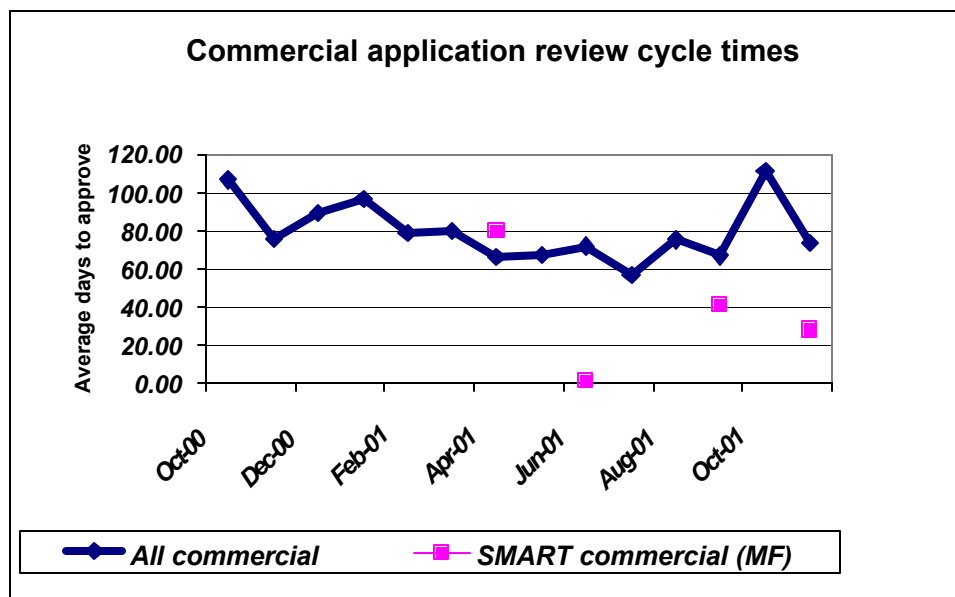


MONTH	AVERAGE REVIEW CYCLE TIME FOR ALL SITE PLANS	AVERAGE REVIEW CYCLE TIME FOR S.M.A.R.T. HOUSING SITE PLANS
Oct-00	139.63	
Nov-00	151.70	
Dec-00	160.24	
Jan-01	151.36	
Feb-01	125.79	
Mar-01	175.78	102.00
Apr-01	148.77	
May-01	137.00	
Jun-01	151.28	
Jul-01	131.75	
Aug-01	145.00	
Sept-01	127.73	98.50
Oct-01	121.46	138.00
Nov-01	122.03	

REVIEW OF COMMERCIAL APPLICATIONS

S.M.A.R.T. Housing projects met the goal for commercial plan review time in two of the four months that had S.M.A.R.T. cases. For the time period October 2000 through November 2001, the average cycle time for commercial application review ranged from 57 to 112 days; the caseload varied between 22 and 60 cases per month. In November 2001, there were 38 cases with an average cycle time of 74 days.

For the same time period, the average review cycle time for S.M.A.R.T. Housing commercial applications ranged from 1 to 80 days. In June 2001, the one S.M.A.R.T. Housing commercial application reviewed was a revision and only required a one-day cycle time. A revision is a change to an already approved plan, unlike an update, which is a design change during the review to gain approval. Revisions are treated as a new case and can vary from fairly simple to quite involved. In April 2001, two S.M.A.R.T. Housing commercial multifamily projects averaged longer review times than all commercial applications. These two cases were Safeplace (19 days) and Fort Branch Landing (140 days). According to WPDR staff, Safeplace did not notify the review staff that the case was a S.M.A.R.T. Housing case subject to expedited review until after the update was submitted. Review was then expedited as much as possible. In the Fort Branch Landing case, the applicant did not provide an update for several months.

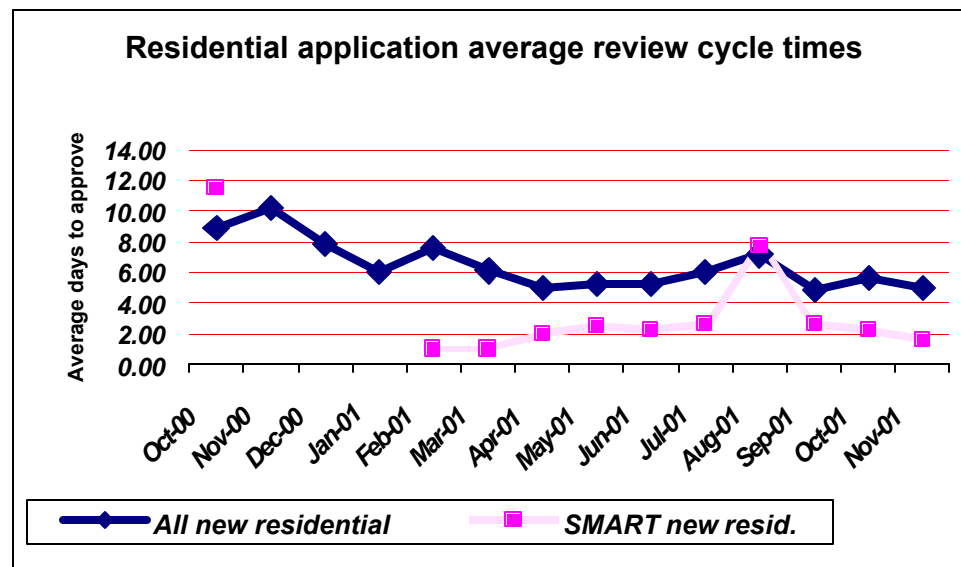


MONTH	AVERAGE APPLICATION REVIEW CYCLE TIMES FOR ALL COMMERCIAL PLANS	AVERAGE APPLICATION REVIEW CYCLE TIMES FOR S.M.A.R.T. HOUSING COMMERCIAL PLANS
Oct-00	106.75	
Nov-00	76.05	
Dec-00	89.21	
Jan-01	96.53	
Feb-01	78.79	
Mar-01	79.66	
Apr-01	66.63	79.50
May-01	67.45	
Jun-01	71.88	1.00
Jul-01	56.74	
Aug-01	75.28	
Sept-01	66.83	41.00
Oct-01	111.58	
Nov-01	73.76	28.00

REVIEW OF RESIDENTIAL APPLICATIONS

With one exception, WPDR met the S.M.A.R.T. Housing goal for review of residential applications. Residential applications are applications to build single-family residences on vacant lots in existing subdivisions. For the time period October 2000 through November 2001, the average review cycle time for new S.M.A.R.T. Housing residential applications ranges from 1 to 11.5 days. The number of new S.M.A.R.T. Housing residential cases ranged from 1 to 41 in this time period; the number of cases peaked in April 2001 and May 2001 with 41 and 40, respectively.

For the same time period, the average review cycle time for all new residential applications ranges from 5 to 10 days and the number of cases ranges from 120 to 352. October 2000 had the highest number of cases (352), while October and November 2001 had 120 cases each.



MONTHS	AVERAGE APPLICATION CYCLE TIME FOR ALL NEW RESIDENTIAL	AVERAGE APPLICATION CYCLE TIME FOR S.M.A.R.T. HOUSING NEW RESIDENTIAL
Oct-00	8.89	11.50
Nov-00	10.15	
Dec-00	7.87	
Jan-01	5.99	
Feb-01	7.59	1.00
Mar-01	6.07	1.00
Apr-01	5.00	1.95
May-01	5.23	2.53
Jun-01	5.23	2.23
Jul-01	6.04	2.67
Aug-01	7.14	7.67
Sept-01	4.86	2.67
Oct-01	5.67	2.24
Nov-01	5.02	1.62

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APPENDIX D
STAGES IN THE DEVELOPMENT PROCESS

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STAGES IN THE DEVELOPMENT PROCESS

Stage 1. Certification by NHCD—Neighborhood Housing and Community Development’s administrative approval for developer participation in the S.M.A.R.T. Housing expedited review and fee waiver program. Follows desk review of submitted application and preliminary project plans to verify intentions and feasibility of project compliance with S.M.A.R.T. Housing standards.

Stage 2. Pre-submittal meeting – Prior to entering the Watershed Protection and Development Review’s development review process outlined below, some projects have a preliminary meeting between staff and developers that includes a preliminary plan review, explanation of procedures and requirements, fee estimates, and identification and discussion of potential barriers to development. Required for single-family subdivisions, multifamily developments, and all zoning cases, but optional for other types of projects.

Land Development Review by WPDR

Reviews that all housing and commercial projects constructed within the City limits are required to undergo to ensure project compliance with the City’s land development and usage, lot subdivision, and site plan ordinances. The process includes an optional preliminary project assessment and three types of project reviews performed by WPDR staff.

Stage 3. Development Assessment – Similar to the pre-submittal meeting defined above, but this assessment occurs after a project’s entry into the City’s development review process. Typically projects that have pre-submittal meetings do not require formal development assessments.

Stage 4. Zoning—Identification of appropriate land uses for an area based on factors such as the intensity, density, height of a proposed project, surrounding land uses, traffic impacts and access to a site, environmental concerns, and overall land use compatibility.

Stage 5. Subdivision—Ensures that a project is on a legally subdivided lot that has proper space for the intended kind of development and the required utility easements and roadways.

Stage 6. Site Plan—Ensures a proposed project complies with the City’s Land Development Code through the review of drawings that depict the intensity, density, height, and setbacks of the project to the site itself, along with drainage, landscaping, sidewalk, and other site construction issues.

Stage 7. Building plan review and permit issuance—The building permit application and review process ensures that the plans for construction comply with the City’s land use and construction standards. Specifically reviewed are building, plumbing, electrical, fire, health, mechanical, energy code, and zoning

reviews. If plans are approved, building permits are issued and construction can begin.

Zoning, Subdivision, Site Plan, and Building Plan reviews may be conducted concurrently; however, they must be approved in the order in which they appear above.

Stage 8. Inspection and Certificate of Occupancy—The last step in the development process, building inspections are performed to ensure that the construction product is compliant with City building codes and meets the specifications of the previously approved plans submitted to obtain the required building permits. Once compliance is assured, a Certificate of Occupancy is issued indicating construction is complete and the building is ready for occupancy.